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THE CODE MAKING PROGRAM OF THE NRA IN THE TERRITORIES

By
P. J. Dufficy

WORK MATERIALS NO. 51

NRA ORGANIZATION STUDIES SECTION
March, 1936

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F O R E W O R D

This study of The Code Making Program of the NRA in the Territories was prepared by Mr. F. J. Dufficy of the NRA Organization Studies Section, Mr. William W. Bardsley in charge.

The report is a review and analysis of the various aspects of the administrative policy and procedure of NRA with respect to the codifying of industries and trades in Alaska, Hawaii and Puerto Rico and of the effect of the application of policy and procedure. There is a condensed statement of the contents of the report in the Summary immediately following the Table of Contents. Brief statements as to methodology and fields for further study are to be found in Appendix I. The more important subjects under the title of the study for further research are the provisions of the territorial codes, their administration in the territories and the effects of such provisions and administration. To some extent these subjects are covered by code histories prepared in the Division of Review.

At the back of this report will be found a brief statement of the studies undertaken by the Division of Review.

L. C. Marshall, Director
Division of Review

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SUMMARY

INTRODUCTION

In the very beginning of the administration of the National Industrial Recovery Act, the Administrator established the general policy that all codes should be national, and not sectional, in their geographical compass. This policy was not to be departed from unless some very strong and impelling reason could be shown in justification.

The plan ultimately adopted for codification of trades and industries in the territories constituted a departure from that general policy.

It is the purpose of this study to review the history of territorial codification; to investigate the circumstances which prompted the adoption of the special policy for the territories permitting trades and industries in Puerto Rico and Hawaii to apply for separate codes;to review the results of the special policy and procedure adopted; and to appraise in the light of experience, such policy and procedure.

BASES IN LAW

The Constitution of the United States gives Congress plenary power over the territorial possessions of the United States. There is no division of authority such as existed between the Federal Government and the several State governments. The general laws of the United States not locally inapplicable, have been extended by statute to Alaska, Hawaii and Puerto Rico, but not to the Philippine Islands or other possessions. The National Industrial Recovery Act applied only to Alaska, Hawaii and Puerto Rico.

Under the terms of the Act, the President was authorized to approve Codes of Fair Competition for trades and industries or sub-divisions thereof; it was within his discretion to bring territorial trades and industries under codes either (a) by means of inclusion in national codes, or (b) by means of separate codes.

EARLY TERRITORIAL POLICY

In the beginning no special thought was given to the problem, due to concentration on the vastly more important larger problems pressing for solution. Territories were looked upon the same as any other geographical section of the country, and treated in the same manner.

Late in August, 1933, the Administrator, General Johnson, announced that different economic conditions in the territories made it impossible to apply the mainland standards and special provisions therefore would have to be made for trades and industries in the territories.

ECONOMIC CONDITIONS IN TERRITORIES

Alaska

Alaska is a vast territory, sparsely inhabited. Its two principal industries are fishing and gold mining. Alaska imports almost all of its economic goods from the mainland and sells its products almost entirely to the mainland. The cost of living and prevailing wages are higher than in the States.

Hawaii

Hawaii is predominantly agricultural, its two major industries being sugar and pineapples. These products are sold almost exclusively to the mainland, and Hawaii purchases nearly all its economic goods from the mainland. The cost of living and prevailing wages are about the same as in the states.

Puerto Rico

Puerto Rico is also predominantly agricultural, its chief product being sugar. Outside of agriculture its only industry of any importance is the Needlework Industry, which products are sold on the mainland. Puerto Rico's trade is almost entirely with the United States. Wages in general are lower than on the mainland, and the standard of living for the bulk of the dense population is below that existing on the mainland.

PERIOD OF CONFUSION

After General Johnson made known that he felt mainland standards could not be applied to the territories, trades and industries there were confused as to whether or not they should comply with the PRA and the national codes already approved. No effort at enforcement was being made, and the status of territorial trades and industries was left up in the air.

In Washington, similar confusion existed. Doubts as to whether the territories were properly represented by proponents of approved codes, together with General Johnson's statement, made it appear inadvisable to hold that territorial trades and industries should comply.

SPECIAL POLICY FORMULATED

A plan was therefore worked out which recognized the principle that territories were subject to approved national codes but which further recognized that economic condition in the territories might be such that compliance with the approved codes was impossible and therefore the territories were to apply for necessary amendments, pending which time no effort at enforcement would be made.

The procedure laid down was similar to that prescribed for negotiation of mainland codes.

APPLICATION OF POLICY

Alaska followed the policy laid down and operated under mainland codes, but did not seek amendments inasmuch as they were already paying more than the codes required as minimum wages, and they could readily comply with the code requirements.

Hawaii departed from policy, due both to misunderstanding of policy and insistence of trades and industries on separate codes. Separate codes were proposed for all industries (except canning and can manufacturing) and public hearings held.

Puerto Rico found conformance with policy impracticable in the Needlework Industry, the largest industry outside of agriculture, and sought and received permission from Washington to write a separate code. Attempts to amend other codes were unsuccessful.

POLICY REVISED

For practical reasons it was deemed expedient to permit Hawaii to continue negotiation of separate codes and Administrative Order X-60 of July 2, 1934, formally approved that policy. It extended the same privilege to Puerto Rico for similar practical reasons.

This policy was necessary to prevent complete collapse of the efforts at bringing Hawaii and Puerto Rico under active operation of the Act. Failure to permit separate codes quite certainly would have resulted in both Hawaiian and Puerto Rican industries challenging the validity of national codes as applied to them, principally on the theory that they were not represented in the negotiation of national codes and had not had adequate notice.

RESULTS OF CODIFICATION PLAN

Trades and industries in both Hawaii and Puerto Rico used as models for their proposed codes the national codes previously approved. National policy was changing constantly. As a result, the proposed codes when received in Washington, contained provisions which were against the new current national policy, and could not be approved. They were therefore returned for correction.

Proposed codes when received in Washington were handled by mainland deputies handling the corresponding industries on the mainland. Already overburdened with work on their own mainland codes, these deputies had no time to devote to proposed territorial codes which were permitted to lie around without any action being taken on them.

As a result, only 5 of the 25 submitted Hawaiian separate codes were finally approved before the Schechter decision and these at a very late date. Only two out of twelve proposed separate codes for Puerto Rico were approved.

ADMINISTRATION

Administration from Washington, of codes effective in Alaska with a deputy stationed in Alaska, proved satisfactory except in the matter of exemptions. Here greater speed was necessary, and this was accomplished by delegating to the deputy the power to grant exemptions, subject to review and disapproval in Washington.

In Hawaii the approved separate codes required action by the National Industrial Recovery Board on many questions. Administration from Washington proved impracticable. In order to permit prompt action and better administration, authority was delegated to the deputy to take required action under approved separate codes in the name of the National Industrial Recovery Board, subject to review and disapproval in Washington.

Puerto Rico, unlike Hawaii and Alaska, has good air mail service to Washington, and for that reason and because the only approved Puerto Rican Code of any importance, the Needlework Industry, was engaged in active competition with mainland industries, it was considered inadvisable to delegate any special administrative authority to the deputy there.

EVALUATION AND CONCLUSIONS

The plan adopted was probably, under the circumstances, the only prudent course to pursue. But it failed to accomplish the goal desired, and demonstrated the difficulties to be encountered in any effort at separate codification.

If the problem again presents itself, the difficulties that necessitated the course which was followed, can be eliminated in the beginning by having the territories properly represented in the negotiation of national codes as a part thereof. They will then be codified as a part of the national codes with such special provisions as their economic conditions require, and can be simply and effectively administered as such.

CHAPTER I

INTRODUCTION

It is not the purpose of this study to investigate the various individual codes and agreements proposed or approved for the territories. This study is concerned rather with a review and analysis of (1) the reasons which promoted the adoption of the administrative policy to accord special treatment to the territories and permit trades and industries therein to apply for separate codes, (2) the method laid down for the execution of that policy, (3) the effect of the application of such policy and procedure and (4) an appraisal of the merits of the policy and method.

The general policy adopted at the very beginning of the administration of the Act, before the territorial problem had presented itself, was that only national codes would be considered and that no code would be approved which was limited in its application to a geographical subdivision of the country. This policy was firmly adhered to throughout the lifetime of the Administration, with very few exceptions.

In this study, we shall attempt to discover why the exception was made in the case of territories, how it worked out, and whether it now, in the light of experience, appears to have been good policy worthy of repetition in the event the problem again presents itself for determination, or whether experience has shown a better plan of action which would be more effective.

CHAPTER II

BASES IN LAW

I. CONSTITUTION

The Constitution of the United States, Article IV, Section 3, provides that "The Congress shall have the power to dispose of and make all needful rules and regulations respecting the Territory or other Property belonging to the United States." The power of Congress to govern the Territories has never been questioned.(*)

There is no division of authority between the United States and its territories and possessions as there is between the United States and the several states of the Union. Congress has the power to regulate all trade and commerce within the territories; there is no "interstate" and "intrastate" problem involved.

II. NATIONAL INDUSTRIAL RECOVERY ACT.

Alaska and Hawaii are the only present territories which have been incorporated into the United States and are integral parts of the United States. The Constitution and the laws of the United States, not locally inapplicable, have been specifically declared by statute to have the same force and effect in those territories as they have in other parts of the United States.

The statutory laws of the United States, not locally inapplicable, have been expressly decalred, by statute, to be in full force and effect in Puerto Rico.

The National Industrial Recovery Act, therefore, applied to those three territories -- Alaska, Hawaii and Puerto Rico.

Congress has provided, by statute, that no law of the United States applies to the Philippine Islands unless it specifically so provides. The Attorney General held that the National Industrial Recovery Act, insofar as it prescribed the formulation, approval, and enforcement of codes, was not applicable to the Philippin Islands.

There is no law extending the general statutory laws of the United States to the Virgin Islands, Canal Zone, Samoa, or Guam. The National Industrial Recovery Act, therefore, did not apply to those territories. (**)

Since the statutory laws of the United States, not locally inapplicable, do apply to Alaska, Hawaii and Puerto Rico, and since there was nothing to indicate that the National Industrial Recovery Act was not locally inapplicable, but on the contrary there was abundant evidence to show that the Act was locally applicable, it follows that

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(*) See Willoughby, Constitutional Law of the United States, Section 181.

(**) See N.R.A. Legal Research Memorandum of Law No. 237 on "Applicability of Codes to Territorial Possessions", June 27, 1934.

the provisions of the Act granting to the President the power to approve codes and agreements included the power to approve codes and agreements which included those territories, as well as the several states of the Union and the District of Columbia.

Section 3(a) of the Act provided that "Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivision thereof (underscoring supplied), represented by the applicant or applicants, if the President finds, etc." There is nowhere in the Act a definition of the term "subdivision" of a trade or industry. In the absence of any expressed or implied special meaning, it must be taken that the meaning intended by Congress was the commonly understood and generally accepted meaning of the term, namely, a part or something less than the whole. That it could properly be looked upon as a geographical part as well as a functional part seems to be borne out by the language contained in Section 7 (c) of the Act, where in speaking of the President's power to prescribe limited codes of fair competition, the Act provides that "the President may differentiate according to the experience and skill of the employees affected and according to the locality of employment". (Underscoring supplied). The Administration from the beginning interpreted the term "subdivision" to mean a geographical subdivision as well as a functional subdivision, as is evidenced by its approval of geographical wage and hours agreements under Section 7 (b). It would therefore appear that the Administration's general policy to approve only national codes was a decision based solely on administrative discretion and not on legal requirement, and that if the Administration so chose, it was free to approve separate codes for geographical subdivisions of an industry -- and therefore to approve separate codes for any or all of the territories of Alaska, Hawaii and Puerto Rico.

CHAPTER III

EARLY TERRITORIAL POLICY

I. NO SPECIAL PROVISION AT BE INING.

Immediately after the National Industrial Recovery Act was approved by the President, the machinery for administering the Act was set up and started to function. The major and most immediate purpose of the Act was to stimulate purchasing power by increasing employment and thus to speed up the wheels of industry by increasing the demand for industry's products, which would in turn result in still further increase in employment. To accomplish this major purpose speed in putting the Act into effect was of the essence. The quicker the process could be put into motion, the quicker the goal would be reached.

Title II of the Act providing for public works was placed under a separate administration independent of the Administration provided for Title I, but each was to be complimentary to the other in accomplishing the common goal. In this study we are concerned only with the administration of Title I which dealt with industrial recovery.

A relatively small number of industries provide by far the bulk of employment in this country and it was obvious that the first step should be an effort to codify those large industries. This the Administration immediately set out to do. Industry responded enthusiastically. However, codes were something new and there was no unanimity of opinion either among the members of a particular industry as to what should be embraced in a code, or between industries and the National Recovery Administration, and despite heroic efforts on the part of both members of industry and the Administration, with both working feverishly from early morning until late at night, it was impossible to formulate and approve codes as quickly as desired. In order therefore to accomplish the goal of stimulating employment and increasing purchasing power immediately, the President's Reemployment Agreement, providing for increased wages and shorter hours, was introduced to serve until such time as industries could be codified. The PRA was enthusiastically accepted by trades and industries throughout the country. It was an excellent stop-gap device and served its purpose very well. However, it was simply a stop-gap device and nothing more, and its introduction and acceptance did not in any way relieve the great pressure to get trades and industries codified.

It is not surprising, therefore, that the territorial problem, a minor one when compared with the whole problem of codification, should not come up for consideration during the early hectic days. The Administration had to concentrate its time and effort on the major problem, and this necessarily left very little time for the lesser ones such as the territories. The most pressing task before the Administration at the time was to get the greatest possible

number of workers under codes as quickly as possible. A comparison of the number of employable workers on the mainland and those in the territories will readily show the advisability of concentrating on the mainland codification. The 1930 Census shows that there were roughly 48,000,000 employable workers on the mainland and about 700,000 in the territories of Alaska, Hawaii and Puerto Rico combined. Not all of these workers, however, were to be covered by the National Industrial Recovery Act. The Administration exempted all of those workers engaged in agriculture, public service, professional service, domestic service, and railroads. This left about 30,000,000 employable workers on the mainland to be covered by codes, and about 250,000 in the three territories combined.

The Administration at the very beginning saw the necessity for codifying industries by means of national codes only, for it was apparent that if codes were permitted for geographical divisions of an industry it would take an endless time to codify industry because of the confusion that would result from the multitude of codes proposed for any one industry and because of the difficulty of coordinating this multitude of codes. Each geographical section of the country was properly looked upon as a part of the whole and the code for an industry was to cover the whole, with special provisions if necessary to take care of any special sectional requirements. Experience has shown this to be by far the wiser course and has shown that it worked out very well. Since codes were sponsored and proposed by associations or groups nationally representative of an industry, all sections of the country were given a voice in the determination of what was to go into a code and had an opportunity to object to any provision of the proposed code which they felt was unfair to their interests.

At the beginning, therefore, no thought was given to the idea of submitting separate codes for the territories, and it was assumed that they would operate under the national codes just as any other geographical section of the United States.

II. DECISION TO ACCORD SPECIAL TREATMENT

The peculiar requirements of the territories which called for special treatment were probably first brought to the attention of the Administrator for Industrial Recovery in August of 1933, shortly after the PRA had become effective. In a letter to the Honorable Harold L. Ickes, Secretary of the Interior, (the Division of Territories and Island Possessions is a bureau of the Department of Interior), dated August 22, 1933, General Johnson said:

> "Due to the entirely different hours of labor and wage rates prevailing in our territorial possessions, we are not planning to extend to them the President's Reemployment Agreement. It is obvious that they cannot be regulated on the same basis as industries in the United States. Of course, Section 3(a) of this law applies to the Insular possessions. If any code is presented from time, we shall have to act on it."

At that time the needlework industry in Puerto Rico paid its factory workers an average of 8.9¢ per hour, (*) whereas the PRA provided for a minimum rate of 30¢ per hour for such workers. It was obvious that an increase from 8.9¢ to 30¢ per hour could not be put into effect abruptly without working great hardship on the industry.

The message contained in the letter from General Johnson to Secretary Ickes soon found its way to the territories and resulted in a great deal of confusion in Hawaii and Alaska, where the PRA was already been introduced and had been signed by many members of the trades and industries in those territories. The prevailing wages in both Alaska and Hawaii were not greatly different from those existing on the mainland, and the provisions of the PRA were not looked upon with fear of hardship in those territories as they were in Puerto Rico.

(*) Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, October 1933, Page 46.

CHAPTER IV

ECONOMIC CONDITIONS IN TERRITORIES

In order to better understand the problem which was presented to the Administrator at that time, it would be well for us to take a look at the economic situation existing in each of the Territories.

I. ALASKA.

The 1930 Census shows that the Territory of Alaska with a gross area of 586,400 square miles had a population of 59, 278, or 1/10 of 1 person to a square mile. The largest town was Juneau with a population of 4,043. There were only six other towns with a population of more than 1,000. The population of the territory was divided about evenly between whites and Indians.

The number of employable workers in all industries was 27,752, and the largest groups of these workers were: forestry and fishing 5,187; mines and quarries, 4,657. Over 5,000 of the total were engaged in domestic service. Only 1,198 were engaged in agriculture.

The principal industries of Alaska are the fishing and mining industries. (*) Together they constitute year in and year out over 90 per cent of the territory's production of wealth. Fisheries alone account for about two-thirds of the total, and the canned salmon industry constitutes about ninety per cent of the fisheries. Gold production represents about 90% of the total production of the mining industry.

The trade of Alaska is almost entirely with the United States. In 1933 Alaska imported $19,573,000 worth of products from the United States and only $302,000 worth from other countries. In the same year Alaska exported to the United States $40,145,000 worth of products and exported only $235,000 worth to other countries. Its principal items of export to the United States were $35,464,000 worth of fish and $9,261,000 of gold. Its principal imports from the United States were: animals and animal products, $2,331,000; vegetable food products and beverages, $2,695,000; vegetable products, inedible, except fibers and wood, $935,000; textiles, $1,223,000; wood and paper, $1,069,000; non-metallic minerals, $1,696,000; metals and manufactures except machinery and vehicles, $5,287,000; machinery and vehicles, $2,547,000; chemicals and related products, $866,000; and miscellaneous, $934,000.

In his annual report to the Secretary of the Interior for the fiscal year ending June 30, 1933, the Governor of Alaska said:

> "The unemployment situation in the Territory during the fiscal year was one of the major problems confronting Federal and Territorial officials, as well as local communities. Local public welfare programs were inaugurated in several districts during the winter of 1932-33 to relieve this condition. Unsatisfactory market conditions for fishery products and for base metals caused

(*) Department of Commerce, Statistical Abstract of the U.S. 1933, Pages 517-523.

widespread unemployment among persons usually engaged in these industries. However, toward the latter part of the fiscal year an upward trend of prices for products of these industries gave promise of enabling them again to operate on a profitable basis with a normal supply of labor employed.

"During 1932 there were approximately 3754 men employed in the mining industry, which is an increase of about 21% over the number employed during 1931. This is due to increased activity in gold mining and the reopening of the marble quarry at Tokeen during the year. There was further curtailment of operations at copper mines, where there were only 143 men employed in 1932 compared with 208 in 1931. Of the men employed in the mining industry during 1932, approximately 2,180 were engaged in connection with placer mining, 78 in coal mining and 1,496 in lode mining.

"The working season in the fisheries industry, generally speaking, lasts from four to eight months, depending upon the locality and the nature of the fishery. It is confined generally to the coastal regions of the first and third judicial divisions. From 35 to 50 percent of the labor employed in this industry in the first division, which embraces all of South Alaska, is secured locally from the resident population. About 10 percent of those who are employed are Indians. The balance of the employees are imported from the States for the fishing season only.

"In the Fishing Industry the reduced scale of wages adopted in 1931 was again in effect during the season of 1932. Wages paid general cannery labor secured locally in the first division ranged from $1.70 to $3.00 per day for women and from $3.00 to $4.25 per day for men. In the third division wages for women range from $1.70 to $3.40 per day, and for men from $3.15 to $4.25 per day. All other labor is paid on a monthly or a seasonal basis.

"Labor in the Mining Industry of Alaska is employed under widely varying conditions, controlled both by location of the operation and the nature of the work. It is difficult to make general statements regarding wage scales.

"In placer mining wages for general labor ranged from 50 to 80 cents per hour and board. The hours of labor per shift range from 8 to 10, and the cost of board per man per day ranges from $1.50 in the Cook Inlet Region to $4.00 in remote districts such as Shushana and Koyukuk. Wages for skilled workmen range from $5.00 per day and board for oilers in the Yentna District to $13.00

per day and board for dredge masters.

"The wage scale for coal miners is quite uniform. Underground coal miners and timbermen receive $8.60 per day; underground laborers, trammers, and rope riders, $7.80 per day; and outside labor $5.50 per day. Fire bosses are paid $250 per month and foremen from $250 to $300 per month. Deductions from the above wages are made for board at rates at from $1.50 to $2.00 per day."

II. HAWAII

The 1930 Census shows that the Territory of Hawaii with a gross area of 6407 square miles had a population of 368,336, or an average of 57.5 persons per square mile. There were only two urban places of over 10,000 population in the Territory, namely Honolulu City (on the island of Oahu) with a population of 137,582, and Hilo City (on the island of Hawaii) with a population of 19,468.

The Territory is divided into four counties. Hawaii County with an area of 4015 square miles had a population of 73,335, or an average of 18.3 persons per square mile. Honolulu County with an area of 600 square miles had a population of 202,933, or an average of 338.2 persons per square mile. Kauai County with an area of 620 square miles had a population of 35,942 or an average of 58.0 persons per square mile. Maui County with an area of 1172 square miles had a population of 56,146 or an average of 47.9 persons per square mile.

Classified by race the population consisted of the following.

Hawaiians	22,636
Caucasian Hawaiian	15,682
Asiatic Hawaiian	13,592
Portugese	27,588
Puerto Ricans	6,671
Spanish	1,319
Other Caucasians	44,859
Chinese	27,179
Japanese	139,631
Koreans	6,461
Philippinos	63,052
Negro	563
Other races	217

The 1930 Census shows there were at that time 154,270 employable workers in the Territory, classified as follows: Agriculture 63,907; manufacturing and mechanical industries 21,028; public service, 21,387; domestic and personal service, 13,595; trade, 13,141; transportation, 10,780; professional service, 8,533; forestry and fishing 1,785.

Hawaiian trade is chiefly with the United States. (*) In 1932

(*) U. S. Department of Commerce, Statistical Abstract of the United States, 1933, Pages 518-533.

Hawaiian imports from the United States totaled $58,37[illegible],000 as compared with $5,0[illegible]1,000 from all other countries. Hawaiian exports to the United States amounted to $[illegible],880,000 as compared with $760,000 exports to all other countries.

Hawaii is predominantly agricultural and its main products are sugar and pineapples. In 193[illegible] Hawaii's shipments of canned pineapple to the United States amounted to $[illegible]0,893,000, and its shipments of sugar amounted to $57,588,000 of which $55,600,000 was unrefined sugar.

Hawaii's imports from the United States in 1932 were as follows: Animals and animal products, $5,791,000; vegetable food products and beverages, $9,113,000; vegetable products, inedible, except fibres and wood, $4,313,000; textiles, $4,636,000; wood and paper $3,664,000; non-metallic minerals, $8,293,000; metals and manufactures, except machinery and vehicles, $6,477,000; machinery and vehicles, $7,000,000; chemicals and related products, $5,273,000; miscellaneous, [illegible],358,000.

In 1930 the Bureau of Labor Statistics of the United States Department of Labor made a study of labor conditions in the Territory of Hawaii. (*) All industries of material importance in number of wage earners were covered in the study. This survey showed there were about 60,000 employees in sugar plantations, sugar mills, pineapple plantations and canneries, as compared with about 5,000 in the next 10 most important industries.

Of the total of 49,671 employed on sugar plantations, 47,300 were male. Of the total of 5,477 employed on pineapple plantations, 3,316 were male. The average full-time earnings per week for males, on the sugar plantations, was $11.04, to which must be added the value of perquisites (house, fuel, water and medical and hospital services) furnished without cost by the plantations to the employees, with an estimate value of $1.00 per day or $7.00 per week.

The average full-time earnings per week of male employees on pineapple plantations was $13.62 to which must be added the value of the perquisites amounting to $7.00 per week.

In the pineapple canneries 3,937 of the employees were male and 3,579 were female. The average full-time earnings per week for men was $16.36 and for women $10.08.

The average full-time earnings per week for employees engaged in other industries was as follows: building construction, $25.10; steam railways, $[illegible]2.79; roadbuilding, $[illegible]4.95; longshore labor, $[illegible]5.37; steam laundries, $14.69; tin can manufacturing, $[illegible]3.58; electricity manufacture and distribution, $31.87; street railways, $[illegible].62; printing and publishing, $37.71; stock-raising, $14.58; machine shops, $30.14; gas manufacture and distribution, $[illegible]3.94; drydocks, $[illegible]6.01; dairies, $19.35; coffee mills, $11.74; foundries, $[illegible]8.56; slaughtering and meat packing, $17.70; overall and shirtmaking, $13.74.

(*) Department of Labor, Bureau of Labor Statistics, "Labor Conditions in the Territory of Hawaii, 1929-1930". March 1931.

III. PUERTO RICO

According to the 1930 Census the Island of Puerto Rico, with a gross area of 5,435 square miles had a population of 1,543,913, or an average of 449.5 persons per square mile. There were three urban places with over 20,000 population, namely San Juan, 114,715; Ponce, 53,430; and Mayaguez, 37,060. There were six places with a population between 10 and 20 thousand, nine places with a population between 5 and 10 thousand.

The urban population of the Island was 427,221 or 27.7%, and the rural population was 1,116,692 or 72.3%. 1,146,719 were white and 397,156 were colored. 41.4% of the persons ten years and over were illiterate and 80% were unable to speak English.

There were 503,805 employable workers in Puerto Rico in 1930, classified as follows:

Agricultural	262,623
Farmers (owners & tenants)	44,710
Farm managers & foremen	7,101
Farm laborers	209,902
Other Occupations	910
Manufacturing and mechanical Industries	111,319
Building Industry	12,760
Cigar & Tobacco Industry	15,500
Clothing Industry	7,294
Food & Allied Industries	15,606
Textile Industry	5,903
Independent Hand Trades	44,903
Other manufacturing Industries	4,899
Transportation	17,137
Trade	40,346
Public Service	7,052
Professional Service	12,311
Domestic and Personal Service	48,343

The Island is predominantly agricultural and the major crop is sugar.

Puerto Rico's trade is chiefly with the United States. (*) In 1932 it imported $48,780,000 worth of merchandise from the United States and $7,256,000 from all other countries. Its exports to the United States amounted to $74,290,000, and to all other countries $2,127,000. The principal items in its shipments to the United States were: sugar, $51,864,000; leaf tobacco, $3,473,000; cigar and cheroot, $1,668,000; fruits, $2,948,000; cotton garments and handkerchiefs, $9,561,000; linen manufactures, $539,000; silk dresses and underwear, $1,341,000.

(*) U.S. Department of Commerce, Statistical Abstract of the United States, 1933, Pages 518-523.

Shipments from the United States to Puerto Rico in 1932 were as follows: animals and animal products, $7,687,000; vegetable food products and beverages, $10,663,000; vegetable products, inedible, except fibres and wood, $3,806,000; textiles, $10,004,000; wood and paper, $2,841,000; non-metallic minerals, $2,218,000; metals and manufactures except machinery and vehicles, $2,985,000; machinery and vehicles, $3,006,000; chemicals and related products, $3,717,000; miscellaneous, $1,853,000.

Only fragmentary statistics were available in 1933 as to wages and hours prevailing generally in Puerto Rico.

The 1930 Census showed that out of a total of 506,805 employable workers in all industries, 262,623 workers were engaged in agriculture. A study made by the Puerto Rican Department of Labor in 1932 (*) of wages and hours of labor in sugar cane cultivation (by far the largest agricultural occupation) showed that the average actual earnings per employee was $3.80 for 34.3 hours actually worked. The average full-time hours per week were 52.6, the average rate 11.1¢ per hour, and the full-time average earnings per week $5.84. Of the 11,325 employees reported on approximately 92% were paid less than 14¢ per hour and about 63% under 11¢ per hour. Sugar production is a seasonal industry and most of the workers have only from six to eight months employment per year. The same study showed that out of the 9,628 employees in sugar mills reported on, slightly over 81% received under 14¢ per hour, and approximately 67% under 11¢ per hour.

The Puerto Rican Department of Labor in 1932 also made a study of wages and hours in the Needle work industry, (next to agriculture, the largest industry in the Island) (**) which showed that the average hourly earnings of 4,723 employees (i.e., factory employees) was 8.9¢ and their average actual hours per week was 37.2. The average actual weekly earnings of these workers was $3.32. The average full-time hours per week was 47.3.

The wage scales throughout the Island for all other trades and industries were commonly known to be considerably less than the rates prevailing on the mainland, but no accurate figures were available.

In his annual report to the Secretary of War for the fiscal year ended June 30,1933, the Governor of Puerto Rico said:

> "The Island had closed the previous year in a fairly good economic condition in spite of the severe depression, but during the year under consideration conditions were becoming gradually worse and the amount of unemployment was increasing slightly. Partly as a result of the storm and partly from other conditions, the situation on the Island became definitely worse from September 27 on. After the hurricane there was a spread of employment but this soon receded, and at the close of the fiscal year

(*) U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, October 1933, Page 946.

(**) U.S. Department of Labor, Bureau of Statistics Monthly Labor Review, June, 1933, Page 1390.

under consideration the number of unemployed was probably higher for that time of the year than ever before in the history of the Island. On June 30, the sugar harvest is not yet over, so that June 30 does not fall within the period of the highest unemployment. A great deal of employment in Puerto Rico is seasonal and for many years there has been an abnormally high percentage of unemployment in whole or in part.

"The population problem in Puerto Rico is again of great interest from an economic standpoint. According to the 1930 Census the population of the Island at that time was 1,543,913 persons or an average of 449.5 people to the square mile. The estimated population as of July 1, 1935 was 1,625,814 persons or an average of 472.7 persons per square mile.

"Wages in general have decreased in percentages varying between 10% and 20%. Accurate information is not available on the cost of living but it is believed that the cost of living for the middle and lower class declined at about the same rate. This parallel in decline does not mean to say by any means that the average wages in the Island are consistent with a fair standard of living. It only means that in the judgment of the writer the relative conditions of employed persons, that is, their real wages, were about the same as in the previous year."

It can be seen from the above quick glance at the economic conditions in each of those territories, that the situation obtaining in Alaska and Hawaii was not greatly different from that existing on the mainland. Wage scales and hours of labor in Alaska and Hawaii were roughly about the same as on the mainland. Wage scales in Puerto Rico, however, were a great deal lower. It is quite likely that the Puerto Rican situation was called to the attention of the Administrator and that that is what prompted him to outline the policy stated in his letter to Secretary Ickes.

CHAPTER V

PERIOD OF CONFUSION

There is practically no written record available to show the attitude of trades and industries in the territories of Alaska, Hawaii, and Puerto Rico during the summer of 1933. The best information available is that which was furnished to the writer orally by the respective deputies of those territories, who secured their information from the local business men, employees and public officials after assuming their duties in the territories in December of 1933.

It appears that very few of the business men in Puerto Rico were familiar with or interested in the National Industrial Recovery Act during the early days. No effort was made by the Administration in Washington to inform them or to generate interest in the Act. The widespread interest and enthusiasm cultivated on the mainland had no counterpart in Puerto Rico. The PRA was never introduced there. After a while, however, some of the most alert business men and workers investigated and became convinced that the Act applied to Puerto Rico as well as to the mainland. They felt that the Act promised much benefit both to employer and employee. Determined to secure the benefits of the Act if available to them, they had their attorneys check into the matter. Others now began to take interest and soon there developed two factions, one of which was in favor of having the Act apply to Puerto Rico and the other against. While this state of uncertainty existed word reached them of General Johnson's decision not to apply the PRA to Puerto Rico. Shortly thereafter a representative of the group who were in favor of having the Act apply came to Washington and requested General Johnson to have the Act apply to Puerto Rico.

When the PRA drive was inaugurated on the mainland, Alaska and Hawaii were included in the mailing list and as a result the forms were sent to the postmasters in those territories and instructions sent to the chambers of commerce and boards of trades. These bodies immediately set out to the best of their ability to put the plan into operation. They were able to generate quite a good response and the movement was well started when word reached them that General Johnson had decided not to have the PRA apply in those territories. Those engaged in the effort in Alaska were puzzled by this decision and did not know which way to turn. For the time being they did nothing, hoping and feeling that further instructions would shortly be sent them. In Hawaii, however, the movement had gotten farther under way and more interest had been aroused, and sharp protest was immediately made by many of the business men and workers and by the press of the territory.

I. IN WASHINGTON.

The situation which existed at that time (September of 1933) was perplexing to the NRA officials in Washington as well as to the members of trades and industries in the territories. A great number of codes had already been approved and their definitions were so broad that

they included the territories inasmuch as they prescribed no geographical limitations. (Out of the first 196 codes approved, 180 included the territories in their jurisdiction). Technically, therefore, the members of trades and industries in the territories were subject to the provisions of those codes. However, in view of the position taken by General Johnson in his message to Secretary Ickes, no effort at enforcement was being made in the territories.

Then, too, there was great doubt as to whether the courts would hold that the territorial industries were legally subject to the approved national codes, since it was apparent in nearly every case that the proponents of the national codes were not truly representative of the territorial industries and had given them no consideration in the formulation of the codes.

CHAPTER VI

POLICY FORMULATION

This confusing situation required clarifying action and Assistant Administrator Lea commenced an investigation so that a solution might be worked out. There is no written record of the early discussions which took place among the NRA officials, so it is quite likely that they were all oral.

I. THE PLAN.

On October 19, 1933 Colonel Lea submitted to General Johnson a plan for the administration of the Act in the territories which General Johnson approved on that date. Colonel Lea's memorandum to General Johnson submitting the plan is quoted below. General Johnson indicated his approval of the plan by writing "O.K., H.S. Johnson, October 19, '33" on Colonel Lea's memorandum.

> "Attached is a plan to take care of Islands and territories legally under jurisdiction of N.I.R.A.
>
> "It provides for a Deputy Administrator for each Island or territory. I propose appointment of Deputy Administrators for only Puerto Rico, Hawaii and Alaska at the present time. If plan is approved this will be done at once.
>
> "Deputy Administrators will help local industries to prepare petitions for amendment to approved codes, if necessary - that is, when code provisions, particularly labor provisions, work undue hardship.
>
> "I believe I have covered all the angles:
>
> (1) Necessary representation is provided for.
> (2) Specifications for amendments are made to keep them in line with general policy.
> (3) Code Authority representation and support is provided for.
> (4) Provision is made for isolated cases where approved codes do not affect islands.
>
> "I think we have simplified the procedure as much as possible. If you approve of this plan I will go right ahead; select and secure your approval of the Deputies required, and get the whole plan under way. We already have several good men in mind.
>
> "On account of delays that have occurred, I trust that this has your prompt attention.
>
> O.K. Sincerely yours,
> H.S. Johnson
> Oct. 19, 33. Sigd. R.W. Lea"
> Attachment.

ADMINISTRATION OF NATIONAL INDUSTRIAL RECOVERY ACT IN ISLAND AND TERRITORIAL POSSESSIONS OF THE UNITED STATES

A necessity is recognized for special handling of codes of fair competition, approved by the President and automatically affecting the industries of island and territorial possessions included under the jurisdiction of the N.I.R.A.

The following plan provides for Amendment to approved codes when a vital difference in economic structure of islands and territories justifies such Amendment.

RECOVERY BOARDS

A Deputy Administrator shall be appointed by the Administrator for each island or territory able to prove, by reason of economic necessity, that such Deputy Administrator is required.

This Deputy will represent the N.R.A. on a Board of three, comprised of himself, an appointee of the Department of Interior or the Bureau of Insular Affairs, who will be required to supply information on labor and industrial statistics, and an appointee of the Department of Labor. These latter two members should be chosen from available personnel now residing in island or territory.

PROCEDURE

(A) Copies of every approved code will be forwarded to the Deputy Administrators.

(B) The Recovery Boards will investigate the industries affected by approved codes.

(C) It will be announced as early as possible that conferences and hearings will be held on the above codes for the purpose of drawing up necessary amendments. The industry will be in the position of petitioner for amendment. No petition will be heard unless presented by such associations or groups who impose no inequitable restrictions on admission to membership therein and who are truly representative of the local industry.

(D) A conference will be scheduled and held to which this group will be invited. The approved code will be discussed and provisions which are inapplicable as written will be considered for amendment.

(E) As soon as amended provisions are acceptable to Recovery Board - from points of view - welfare of territory - competition with United States proper and N.R.A Program, the amended code will be presented in public hearing all interested parties may come and voice protests. Revisions of amended code may be

indicated, but in final form amended code must conform to certain specifications.

(F) Amended code will be signed by authorized chairman of committee or other persons.

(G) Amended code will be transmitted to Deputy Administrator in Washington who handled original code, whether N.R.A. or A.A.A. In this latter case petitions for amendment may be received only from Hawaii, Puerto Rico and Alaska.

There will be two types of amended codes (1) those affecting only local industries, and (2) those affecting United States proper industries in the item of competition.

(1) Codes of this type will be approved by Deputy Administrator in Washington and cleared through National Association representing industry, more or less as matter of course.

(2) Amended codes of this type should be accompanied by statistical data showing probable prices on goods exported to the United States in competition with domestic products. These will be reviewed by Deputy in Washington to ascertain whether competition will be fair. The Deputy may then clear amendment through Trade Association.

(H) Amended Code will be submitted by Deputy in Washington to Administrator for approval and submission to the President.

(I) Approved Amendments to code shall be the operating basis for the petitioning industry in island or territory.

(J) In the case of industries peculiar to islands or territories which have no counterpart in United States proper,

(1) An industry as described above may apply to the President for a Code of Fair Competition provided that group or association making application impose no inequitable restrictions on admission to membership therein and are truly representative of such trade or industry.

(2) Such a code shall be submitted to Recovery Board for Review.

(3) Informal conferences and public hearings shall be held.

(4) The Code (in regular form) shall be submitted to Administration in Washington for approval and submission to President.

(K) In the case where Industrial Codes definitely specify that they are to apply only to Continental United States, Codes for local territorial or island industries shall be prepared and follow same procedure as set forth in (J).

SPECIFICATIONS OF AMENDMENTS

(A) Actual wages must be raised.
(B) Actual hours must be shortened.
(C) Adjustment must be made to insure fair competition of exported goods competing with United States products.
(D) No revision of Section 7(a).
(E) No revision of Section 10(b).
(F) Amended Code must state specifically area affected by amendment.

REPRESENTATION IN WASHINGTON AT CODE HEARINGS

No rulings shall be made that representatives of industries in islands and territories may not voice opinions at code hearings. However, this practice should not be promoted. If such opinion is expressed and found by the Deputy in Washington to be pertinent, the information should be forwarded with copy of approved code to Deputy in island or possession.

CODE AUTHORITIES

(A) Due to the expense of maintaining a representative of an island or territorial industry in the States as a member of a Code Authority, the following suggestion is made.
  (1) In the case of purely local industry,
  Such industries will appoint one man who will be an affiliated member of the Code Authority. He will act as arbiter on all purely local disputes; collect and distribute information of local interest; will receive from Code Authority all instructions, etc; and report all activities to Code Authority as a matter of record.
  (2) In the case of an industry in competition with United States proper industry,
  Such industries will appoint two men - both will be affiliated members of Code Authority. One will have same duties as in Case (1) - the other will be in the United States. He will have no part in duties of Code Authority except when questions arise affecting his particular industry in his particular island or territory. Presumably a man will be available, residing in the United States who can act in this capacity. Possibly he might serve on a Code Authority in more than one industry.
  The expenses of both these men will be paid by the local industry.
  Method of collecting funds for support of these Code Authority members should be established by the local industry.

(B) In the cases of codes submitted under Section J of Article on Procedure, a Code Authority should be set up in island or territory, modeled on Code Authorities in United States proper.

The plan recognized that the National Industrial Recovery Act applied to the territories of Alaska, Hawaii and Puerto Rico, and that the members of trades and industries in those territories were subject to the codes already approved for their industries, unless a code by its terms expressly exempted them.

The plan reaffirmed the established policy of the Administration that a single code should apply to all geographical sections of the United States subject to the Act, and that where special provisions were required for certain geographical sections because of economic differences, such provisions should be inserted in the code either at the time it was originally submitted for approval or later on by amendment.

The plan provided a method for amendments to approved codes when a vital difference in the economic structure of any territory justified such amendment.

Inasmuch as the vast majority of the codes already approved did not by their definition limit their geographical applicability, they covered the territories, and this plan for amendment where necessary took care of the majority of trades and industries in the territories. Some few codes by their terms stated that they applied only to the continental United States, and this meant that they were not effective in the territories. In order to take care of these trades and industries in the territories the plan provided that such trades and industries might apply for a separate code. The plan also provided that in the case of industries peculiar to the territories which had no counterpart in the United States proper, those industries might make application for a separate code. It provided for the appointment of a deputy administrator for each territory which was able to prove by reason of economic necessity that amendment to approved codes was essential before its members could be expected to comply.

The plan itself said nothing whatever about enforcement pending application for amendment but the Deputy Administrators who were subsequently appointed were orally instructed that no effort would be made to enforce the codes, at least until such time as they were able to survey the situation on the ground.

On December 26, 1933, Assistant Administrator Alvin Brown wired Deputy Gullion of Hawaii as follows:

"Legally speaking, codes which do not except Hawaii are now in force there, but we have no intention of enforcing them until you submit supplements."

Certain standards were set for amendment, such as -
(a) Actual wages must be raised,
(b) Actual hours must be shortened,
(c) Adjustment must be made to insure fair competition on goods dealing with United States proper products.

The general policy of the plan was made known to all members of the organization by Office Memorandum of December 1, 1933, which read as follows:

"Application of Codes to Territories and Possessions.

"In giving effect to the NIRA in territories and possessions, it is the plan in general to bring industries there located under the same codes applicable to the continental United States rather than write separate codes.

"It will much facilitate this procedure if territories and insular possessions are not excepted from codes or from any of the provisions thereof.

"The codes do cover territories and insular possessions if no specific mention is made of them. Therefore, unless some impelling reason for an exception is given in some particular case, the codes should not be limited in their general geographical application."

The plan as conceived was very sound (with probably one exception) and if carried out as formulated should have been very effective. The section which appears to have been unsound was that which provided for a separate code for the territories in the cases where national codes, already approved, exempted the territories by their terms. It certainly would have been much more consistent and most likely would have been much more effective, if the national codes had been amended to include the territories.

PROCEDURE

The procedure outlined for the negotiation of amendments and separate codes within the territories was almost identical with that already established for the negotiation of codes on the mainland. A group, truly representative of the trade or industry in the territory, was to submit to the Deputy Administrator in the territory the proposed amendment, whereupon he would call a public hearing and negotiate the provisions in the same manner as all code provisions were negotiated on the mainland. After the proposed amendment had the approval of both the industry in the territory and the Deputy Administrator in the territory and his various local labor, industry and consumers advisers, it was to be forwarded to Washington for review by the mainland deputy handling the corresponding industry on the mainland, who would then submit it to the Administrator for approval after clearing it through the code authority on the mainland.

CHAPTER VII

APPLICATION OF POLICY, AND DEPARTURES FROM IT.

I. ALASKA.

The situation in Alaska, as it was encountered by Deputy Administrator Wade on his arrival there, is described in a preliminary draft of "A History of NRA Administration in Alaska" forwarded to Washington by the Deputy on July 22, 1935. In it he says:

> "It was first thought that conditions were so different in the Territory of Alaska that it would be necessary to work out territorial codes of fair competition for the industries there. Investigation proved that this would not be necessary. Members of the several industries were satisfied with the provisions of the mainland codes. This was found to be especially true in the so-called local service industries. From the viewpoint of the Deputy Administrator, the applicability of the mainland codes to territorial industrial conditions was satisfactory in every way, with the exception of the minimum wage provision. In every industry, the minimum wage provided for in the mainland code was much lower than the prevailing wage in that industry in Alaska. When this was pointed out to the members in the several industries, a small percent were willing to have the minimum wage provisions of their code raised, but it was impossible to get a majority of the industries to agree to this change. I do not beleive that the majority of the industry wanted to pay the minimum wage provided in the mainland code, but they did not desire to give their time or spend any money preparing amendments to their code, which would only result in increasing labor costs. Labor at that time was unorganized in Alaska and, therefore, could not effectively raise its voice in protest."

As soon as the Deputy Administrator arrived in Alaska and established his office, he notified members of the various industries there that the National Industrial Recovery Act and the national codes approved under it, were effective in the Territory of Alaska. He also advised them that it was their privilege, if they felt it necessary, to apply for exemption, modification or amendment of the mainland code that affected their business. As stated above, the majority of the members of the several industries were satisfied with the provisions of the mainland codes and preferred to operate under those provisions. Therefore, the mainland codes were thereafter effective in Alaska, without any amendment.

On April 21, 1934, the Deputy Administrator for Alaska wired Washington as follows:

"Suggest that executive order be issued giving Administrator power, after proper notice, to open codes on his own motion, without application on part of industry so that minimum wage can be brought up to prevailing wage scale in Alaska. Industry will not apply for modification for fear an attempt will be made to raise wage provisions in codes. Alaska wage scale thirty percent higher than most codes provide. If the Administrator had power to open a code in this manner and after public

hearing make the necessary modification industry and labor would be satisfied and the codes could all be made workable in thirty days."

The suggestion of the Deputy Administrator could not be followed, however, because it was definitely the policy of the Administration not to impose codes or to oppose amendments on any industry.

Trades and industries in Alaska, therefore, continued to operate under the national codes, without amendments.

II. HAWAII

When Colonel Gullion was appointed Deputy Administrator for Hawaii, he was in military service in Honolulu in the Judge Advocate General's office. He had had no previous connection with NRA, and, therefore, was not so familiar with NRA's general policy and background and plans for the territories as were the Deputies for Alaska and Puerto Rico, who had been with NRA in Washington before proceeding to their posts, and who had been able to discuss the problem orally with Colonel Lea and General Johnson before their departure and receive more detailed instruction than was included in the written plans. Colonel Gullion, therefore, had to rely upon communications from Washington for his instructions.

An idea of the situation which confronted him when he took up his duties late in December, 1933 can be gained from the following extracts from a letter he wrote to the executive offices in Washington on January 25, 1934. He said:

> "When PRA was announced in July, Haole(*) business, except sugar and pineapple, welcomed it with joy. The Japanese were reserved and watchful. Other orientals are not so important in economic policies. The Hawaiians, economically, are with the Haole. Haole (i. e. by and large whites) business saw in PRA the opportunity to stop the sure and rapid Japanese competition, which, due to the lower Japanese standards, was pushing nearly all Haole business (except sugar, pineapple and hotels) into the Pacific Ocean. Sugar and pineapple feared PRA because of its probable eventual effect upon the wages paid plantation laborers. The Japanese feared its effects on small business men and probably disliked it as obstacles to their progressive competitive success over the Haole. But, because of the patriotic appeal of PRA, sugar, pineapple and Japanese could offer only a silent passive opposition. Some businesses, notably, the dairy and the bakers, saw a chance for monopoly and price fixing. The dairymen, as soon as they signed PRA, came out in a full page ad saying they had raised the price of milk several cents in order to support the President. Some Haole business men - in about the same proportion to be found in any American town- were genuinely altruistic and patriotic.

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(*) The term "Haole" as used in Hawaii is a collective word practically synonymous with "Caucasian". As used here, however, "Haole" denotes those people of the Caucasian race who are enjoying economic supremacy in the Territory and are for the most part Nordics.

"The supporters of PRA were mainly the retail Haole business men. Under the leadership of the postmaster, they won out, so far as lip-service to the agreement was concerned, over the more wealthy interests. The signing of the PRA was almost universal and the Blue Eagle was and remains everywhere displayed.

"Then on August 28, 1933, came General Johnson's announcement that NRA would not be 'pushed' in the Territory. This congealed the ardor of the genuine supporters of PRA, and public opinion as a deterrent to the chiseler became negligible. Non-compliance became the rule, to the material detriment of a considerable number of business men who were and remain faithful to the agreement. But the Blue Eagle flies everywhere.

"When, with my appointment, NRA was extended to the territory, it was too late to arouse here the magnificient public spirit which flamed on the mainland under General Johnson's leadership last summer. Doubt of Hawaii, rather than confidence in her had been read into, if not actually expressed in, the decision not to 'push' NRA here.

"It was necessary, without reflection on Washington, to get over the idea of a new deal within the New Deal.

"To win the confidence of the Orientals and particularly of the Japanese, I have held daily conferences with their leaders, singly and in groups, in their offices and in mine. I have addressed also the Japanese and Chinese chambers of Commerce, retail and other trade associations, and the rural merchants in more or less informal talks.

"I made the same approach to Haole trade groups and have addressed Rotary, Lions, Cost Accountants, and other Clubs.

"In all this business I am looking at the goal. The sound and fury of codification will signify nothing unless compliance follows."

On December 28, 1933, Alvin Brown, Assistant Administrator and Executive Officer, wrote Deputy Gullion as follows:

"The attached outline of procedure should be followed as closely as possible by the Deputy Administrator and the other members of the Recovery Board in Hawaii.

"This procedure does not take into account the very important subject of compliance by Hawaiian industries with the terms of approved codes which are and will be effective in the Islands.

"It is felt that a simplified system of code compliance in Hawaii can be evolved under your guidance which will fulfill the spirit and provisions of the Act. Before this problem fully develops, information from you covering local conditions should prove valuable.

9758 "Your comments and suggestions as to procedure will be welcomed."

"ADMINISTRATION OF NATIONAL INDUSTRIAL RECOVERY ACT IN TERRITORY OF HAWAII

"The following procedure govern the special handling of codes of fair competition already approved by the President in their application to Hawaii, and also those Hawaiian codes of fair competition to be submitted to the President for his approval.

"(A) Copies of every code as approved at Washington will be forwarded to the Deputy Administrator for Hawaii.

"(B) The Deputy Administrator for Hawaii, assisted by the Recovery Board, will investigate the industries affected by approved codes. The Deputy Administrator for Hawaii will determine from such investigation which approved codes cover trades or industries existing in Hawaii.

"(C) The Deputy Administrator for Hawaii will announce as early as possible that conferences and hearings will be held on the above codes for the purpose of drawing up necessary modifications of each code applicable to conditions in Hawaii. The industry will be in the position of petitioner for modification. No petition will be heard unless presented by associations or groups which impose no inequitable restrictions on admission to membership therein and which are truly representative of the local industry.

"(D) A conference will be scheduled and held to which this group will be invited. The approved code will be discussed and provisions which are inapplicable as written will be considered for modification.

"(E) As soon as modified provisions are acceptable to Recovery Board from points of view: (1) welfare of territory, (2) competition with United States proper, and (3) N.R.A. Program, the modification will be presented in public hearing. To this hearing all interested parties may come and present their views. Upon the evidence presented, the Code Committee, with the advice of the Deputy Administrator for Hawaii and the Recovery Board, will draft the modified code provisions in final form.

"(F) Modified code provisions will be signed by authorized chairman of committee or other qualified persons.

"(G) Modified code provisions will be transmitted to Deputy Administrator in Washington who handled original code, through the Territorial Section at Washington, accompanied by statistical data showing probable prices on goods exported to the United States in competition with domestic products. These will be reviewed by Deputy in Washington to ascertain whether competition will be fair, and the opinion and information from National Associations will be obtained. The Washington Deputy may proceed then as provided in Paragraph (H) hereof.

"(H) Modified code provisions will be submitted by Deputy in Washington to Administrator for approval.

In addition to modified code provisions there will be certain codes affecting only local industries. Codes of this type, upon transmittal by the Deputy Administrator for Hawaii to Washington will be reviewed by a Deputy Administrator and submitted to the Administrator for approval.

"(I) Where industries with the approval of the Deputy Administrator for Hawaii make application for a code for Hawaii:

(1) Such an industry may apply to the President for a Code of Fair Competition provided that the group or association making application imposes no inequitable restrictions on admission to membership therein and which is truly representative of such trade or industry.

(2) Such a code shall be submitted to Hawaiian Recovery Board for appropriate action.

(3) Informal conferences and public hearings will be held as in the case of a national code.

(4) The Code (in regular form) shall be submitted to Administrator in Washington for approval.

"(J) In the case where Industrial Codes definitely specify that they are to apply only to Continental United States, Codes for local territorial industries shall be prepared and follow same procedure as set forth in (I).

"SPECIFICATIONS OF MODIFICATIONS

"(A) Actual wages for the territory should be raised as much as is consistent with economic conditions.

"(B) Actual hours for the territory should be shortened as much as is consistent with economic conditions.

"(C) Consideration must be given to insuring fair competition both locally and with the Continental United States.

"(D) Modified Code must describe specifically area affected by modification.

"In local codes:

"(A) Section 7 (a) of N. I. R. A. must be inserted.

"(B) Section 10 (b) of the N. I. R. A. must be inserted.

"Notice: Notice of public hearings in the territory must be given in the Continental United States by the Washington Deputy Administrator as in the case of an original Continental code.

"CODE AUTHORITIES

"(A) With reference to modified national codes, due to the expense of maintaining a representative of a territorial industry in the States as a member of a Code Authority, the following suggestion is made:

(I) In the case of a purely local industry which desires Continental representation on a United States Code Authority:

(a) Such industry will elect such man. This Administration will urge that the national code authority make him an affiliated member of the code authority. He will have no part in duties of code authority except when questions arise affecting his particular industry in the territory. Presumably a man will be available, residing in the United States who can act in this capacity. Possibly he might serve on code authorities in more than one industry.

(b) The expenses of the Continental representation will be paid as agreed between the local industry and the Continental code authority.

(c) The method of collecting funds for support of code authority member or members of the local industry should be established by it.

"(B) In the cases of codes submitted under Section I of Article on Procedure, a code authority should be set up in territory, modeled on code authorities in United States proper."

On January 10, 1934, upon receipt of Mr. Brown's memorandum, Deputy Gullion wired him as follows:

"Your memorandum December 28 re local administration received today. It contains nothing materially inconsistant with plans already in process of execution except requirements that Washington Deputy Administrator must give notice in Continental United States of public hearings in the territory.

"Because of widespread doubt of efficiency of local and national administrators so far as Hawaii is concerned due to local failure of PRA I have already published notice of public hearing

for Automobile Industry for January 15th and Hotel Industry for January 19th, giving approximately two weeks advance in each case.

"Recommend that if possible these hearings be held as advertised. Very little if any competition between mainland and Hawaiian Automobile Industry. Hawaii of course competes as a tourist resort with Florida and other American localities.

"Here follows data for possible publication by Washington Deputy Administrator: Automobile Sales and Service Association of Territory of Hawaii, seventy-five percent of the industry, 9:00 a.m. January 15, Alexander Young Hotel Honolulu; basic code for Automobile Industry by its terms applies to following named industries:

New Automobiles
Used Cars
Filling Stations
Storage and Parking
Wholesale Tires
Wholesale Accessories, Parts, and Batteries
Repair Shops
Paint and Trimming

"Hotel hearing same hour and place January 19, code proposed by Hotel Men's Association of Territory of Hawaii claiming seventy-five percent of the industry. Both notices contain hedge clause and all pertinent matter contained in your usual form of hearings. Especially desirable that Automobile hearing be not postponed, but if scheduled hearing will embarrass your Administration I can stand local embarrassment result from postponement.

"Rather than postpone can you not permit me to open hearings for both Automobile and Hotel Associations and then to adjourn them to a date fixed by you which will permit mainland notice and attendance of any mainland witnesses at adjourned hearings?

"Rush reply.

"Will soon send detailed estimate of situation with analysis of potential sources of symptoms."

In reply Mr. Brown advised Deputy Gullion it would be all right for him to go ahead and hold the hearings provided he adjourned them so that they could be reconvened in Washington, thus enabling any interested parties on the mainland to have an opportunity to be heard.

On February Mr. Gullion wrote Mr. Brown as follows:

"Re: Enclosed copy of Outline of Procedure.

"To date I have completed hearings on the Hotel, Automobile and the Contractors' Codes. In each case I have followed the procedure outlined in (i) of page 2 of the enclosure. In drafting the Outline of Procedure, you probably felt that mainland codes should apply to

local industry and be administered from the mainland. It is my definite opinion that mainland administration would be of little value in securing compliance; consequently in the Automobile Code nine industries were grouped together, a code was written applicable to each of them, and a Local Code Authority established. In the Hotel Industry the mainland code was accepted as a basis, certain modifications proposed and a Local Code Authority established. In the General Contractors' Code a Local Code Authority is established.

"In the future I shall attempt to follow the Outline of Procedure indicated under paragraphs (a) to (h), save in the frequent instances where related industries covered by separate codes on the mainland are so few in number in the Territory that they may be combined under one code to facilitate administration and compliance.

"Under the 'Specifications of Modifications' of your memorandum, I am attempting to raise actual wages for the Territory to the highest point at which compliance may be secured from the oriental business men. This, in many cases, is as much as 100 to 150% over wages being paid at present. At the same time I am insisting on inserting in all codes 'saving clauses' which prohibit the reduction of wages, by reason of the code schedule, below rates paid in June of 1933. This will maintain wages paid in haole (white) establishments and at the same time serve to draw the wage level of the oriental-employed labor up to the level now being paid by the better establishments,

"Consideration will be given to the condition of competition between territorial and mainland industry. However, such competition is rare save in industries which fall under the Agricultural Adjustment Administration.

"All codes are containing the prescribed conditions mentioned in (d) of 'Specifications of Modifications' and Section 7 (a) and 10 (b) of NIRA.

"As instructed in your wire of January 12, Notices of Public Hearings in the Territory have been forwarded to you by mail.

"Local industry, with possibly two exceptions (haole (white) paper distributors and haole graphic arts) is strenuous in its objection to paying dues to some mainland trade association or mainland code authority, having witnessed the results of such practice as it occurs here in the Petroleum Industry. I am in sympathy with its viewpoint and feel that even though a local trade accepts the mainland code in its entirety, it should be permitted to modify the administration sections of the codes to provide for a purely local code authority organized from a truly representative local trade association and of no financial or other allegiance to a mainland trade association. This is consistent with 'the greatest possible local autonomy idea' presented in my #1 wire of December 23rd. If for purposes of statistics and formation of trade practices, the territorial and mainland code authorities should work together, I think it would be to their mutual advantage and will influence the local code authorities to that end.

"In Volume II on each code which I send to Washington, I shall include the reports on the code of the Hawaii Recovery Board members, and my letter of transmittal will contain any rebuttal which I may have to offer to their suggestions.

"I trust that these recommendations will meet with your approval and that the national office can speedily arrive at its decision so that these codes may go into early operation."

In answer to that memorandum from Mr. Gullion, Mr. Brown wrote him on February 26th as follows:

> "This acknowledges your letter of February 3 entitled 'Enclosed Copy of Outline of Procedure'.
>
> "I am very glad to learn of the progress you are making on codification. Your provision for a local code authority under your proposed modifications to the Hotel Industry Code and in your General Contractors' Code is acceptable.
>
> "Your description of what you are attempting to do, in line with the established outline of procedure, meets with entire approval here. Modification of codes to provide for purely local code authorities, without financial or other allegiance to mainland trade associations, but subject to necessary cooperation between them and mainland code authorities for statistical and trade practice information, seems to be the logical way to handle this angle.
>
> "Every code, after its approval by you and submission in here, will, of course, have to be closely scrutinized. Your territorial Auto Code is being studied now and we will advise you by radio as to our findings. I am already advised by the Deputy here that he considers it a very fine job."

It can be seen from the above exchanges of memoranda that the Deputy Administrator for Hawaii interpreted his instructions to mean that if trades and industries in Hawaii preferred to apply for a separate code rather than modification of the mainland code, that they were free to do this. Proceeding on that assumption, he had received and accepted applications for separate codes from many of the industries and by March 1st had held public hearings on separate codes for the following trades and industries: Automobile; Hotel; General Contractors; Retail; Banking; Trucking; Crushed Stone, Sand and Gravel; Radio Broadcasting; Transit; Wholesale Trade. In addition, he had held preliminary conferences, looking toward separate codes for other trades and industries in the Islands and had arranged public hearings during the month of March on the following: Restaurant; Ice; Motion Picture; Air Transport; Manufacturing; Laundry; Cleaning and Dyeing. Preliminary conferences looking toward separate codes for the following industries had also been held: Custom Needleworkers; Barber Shops; Beauty Shops; Fisheries; Building and Loan Associations; Graphic Arts; Funeral; Bottled Soft Drinks.

When it was realized in Washington that the policy of amending mainland codes had been departed from and the policy of separate codes

had been substituted and had proceeded to such an advanced stage, it was deemed better to let the policy of separate codification proceed rather than to attempt to upset the plans made and put into effect, which would undoubtedly have caused great confusion and resentment among the members of trade and industry in the Territory, and possibly have killed any further chance of cooperation.

III. PUERTO RICO

When Deputy Long arrived in Puerto Rico, late in December, 1933, he found that there was very little knowledge of and very little interest in the National Industrial Recovery Act on the part of members of trades and industries. The number of business men who were interested in having the Act apply to Puerto Rico was small when compared with those who were uninterested. His first job, therefore, was to conduct a campaign of education among the members of trades and industries and endeavor to arouse their interest. This proved to be a most difficult task. The largest industry subject to N.I.R.A., from the viewpoint of number of workers, was the Needlework Industry, and inasmuch as their products were sold on the mainland, and they were technically under the national codes, he had more success in arousing their interest than the others. According to the best information available, there were between 5 and 7 thousand workers employed in needlework factories and about 70,000 employed in the homes. The average weekly wage paid to factory workers was $3.32 and the average wage paid to homeworkers amounted to about $1.50 per week. These factories and homeworkers were engaged in the manufacture of products that were covered by about a dozen national codes. The minimum wage prescribed in the national codes averaged about $15.00 per week. It was obvious that the Puerto Rican industries could not immediately step up their wages so drastically, and that amendment was necessary. Since it was customary for a factory in Puerto Rico to make in its one factory building, products that were covered by perhaps 6 or 8 of the mainland codes, and since it would be obviously impossible for a manufacturer to employ 6 or 8 different wage scales in his one plant, the manufacturers requested that a uniform wage scale and uniform hour provisions for all employees engaged in plants, be established. Now this meant, if they were to operate under the respective national codes, that above a dozen national codes would have to be amended and this, of course, would take a long time. The Deputy in Puerto Rico, therefore, requested permission from Washington to write a separate code for the Needlework Industry in Puerto Rico so as to avoid the long delay that would be encountered in amending so many codes, and in this manner to get the members of the industry much more promptly operating under provisions with which they could comply.

This permission was granted and the Deputy commenced negotiations for a separate code. On January 30, 1934, the Puerto Rican Needlework Association submitted a proposed code to the Deputy and a preliminary hearing was held on February 28th which was adjourned and later reconvened in Washington to afford mainland manufacturers an opportunity to be heard.

The amount of work involved in the negotiation of the Needlework Code was so heavy that the Deputy Administrator and his staff had little time to devote to the negotiation of other codes.

CHAPTER VIII

POLICY REVISED

On December 29, 1933, an Office Memorandum had been issued establishing a "Territorial Section" reading as follows:

> "In order to coordinate our instructions to and correspondence with territorial deputy administrators, there has been established a Territorial Section in charge of Walker M. Duvall (Room 3061 - Extension 483).
>
> All correspondence directed to the deputy administrators in Hawaii, Alaska and Puerto Rico should pass through the Territorial Section. Before requesting information from the territorial deputy administrators, the Territorial Section should be consulted, in order to determine whether the information is available from Washington."

The Territorial Section, under the direction of Mr. Duvall, operated as a channel of correspondence and liaison between the main office and the Territorial Deputies until May 15th, 1934, on which date the Territorial Section was transferred to the newly created Division 8, with Acting Division Administrator Linton M. Collins in charge.

The function of the Territorial Section in Division 8 was outlined in Office Memorandum #205, dated May 17,1934, as follows:

> "Territorial Matters: Liaison with Division 1-7 in respect to basic and supplementary codes of fair competition for the Territories, and territorial modifications to mainland codes of fair competition; interpretations, exemptions and exceptions relating to trades or industries located in the territories; and also any agreements made by Deputy Administrators with trades or industries in the territories;
>
> (Note: Administration of matters pertaining to codes, modifications, etc., remains with the Division which handles the corresponding industries in continental United States; Div. 8 serves as a control agency and channel of correspondence, on all matters pertaining to territorial codes)"

While Deputy Long was here in Washington, during the month of May, 1934, it was thought advisable by him and by the Territorial Section to have a re-statement of the policy and procedure respecting territories because it had, by this time, become rather loose and disintegrated. Alaska was proceeding on one basis, Hawaii on another, and Puerto Rico on still another. The Alaskan situation was satisfactory because the industries there were complying with the national codes. In Hawaii and Puerto Rico, however, no effort was being made at enforcement of the national codes. Technically, trades and industries in Hawaii and Puerto Rico were subject to the National Codes

which had been approved, and were legally obligated to comply with them. The Administration, however, had recognized the impossibility of securing compliance with the mainland codes, and the Deputy Administrators had advised the industries in both places, informally, that no effort would be made to enforce the codes until they had submitted amendments or separate codes.

The Administration had already committed itself, through the Deputy, to the members of trade and industry in Hawaii to grant them separate codes if they made application for them. It could not very well now retract this commitment without incurring the resentment of the members of the trades and industries in Hawaii. It had granted permission to the Needlework Industry in Puerto Rico to apply for a separate code, and the great difficulty and delay encountered in attempts to secure approval of amendments to the Men's Clothing Code and the Hat Manufacturing Code made it appear inadvisable to grant permission to trades and industries in Puerto Rico to apply for separate codes. The Legal Division, moreover, had doubts as to whether or not the courts would sustain the national codes as applying to trades and industries in the territories, inasmuch as most codes, while technically including the territories, showed in their contents, that they had given no consideration whatsoever to the conditions existing in the territories. It was questionable whether the proponents of the national codes could be said to be truly representative of the trades and industries in the territories.

Members of trades and industries in Puerto Rico were openly challenging the validity of the codes as applied to them. In nearly every case it was very questionable if the proponents of the national code could truly be said to be representative of the industry in Puerto Rico. It was a close question and could not now be settled except by a court ruling.

If attempts were made to enforce the national codes in Hawaii, and Puerto Rico, the members of trades and industries would unquestionably have gone to the courts. This would have greatly delayed putting the Act into effect in those territories. It was therefore deemed advisable to recognize the situation as it actually existed, and it was thought that much better results could be obtained if trades and industries in both places were permitted to apply for separate codes and thus remove any doubt as to the truly representative nature of the proponents of the code.

Therefore, on July 2, 1934, the Administrator issued Administrative Order X-60 which read as follows:

"ADMINISTRATIVE ORDER X-60

EXEMPTIONS OF TRADES AND INDUSTRIES IN THE TERRITORIES OF HAWAII AND PUERTO RICO FROM CODES OF FAIR COMPETITION, ISSUANCE OF LABELS BEARING N.R.A. INSIGNIA, AND PROVISION FOR ADMINISTRATOR'S TERRITORIAL AGREEMENTS

By virtue of the authority vested in me under Title I of the

National Industrial Recovery Act by Executive Orders of the President, including Executive Order No. 6590-A, dated February 8, 1934, and otherwise, it is hereby ordered:

(1) Trades and industries in the Territory of Puerto Rico and in the Territory of Hawaii shall be exempt from codes of fair competition heretofore approved until September 1, 1934, and from codes hereafter approved for a period of six weeks following the dates of such approvals. Such an exemption may be terminated or extended for a trade or industry, or subdivision thereof, in such Territory, as hereinafter provided or as the Deputy Administrator for such Territory shall order.

(2) This Order shall not affect:

(a) Any exception or exemption of a specified trade or industry, or subdivision thereof, in a Territory, or of a specified person or persons, heretofore or hereafter granted;
(b) Any code of fair competition or modification of a code for a trade or industry, or subdivision thereof, in Hawaii or Puerto Rico.

(3) At any time before the expiration of an exemption under Paragraph (1) of this Order, application may be made by one or more trade or industrial associations or groups which impose no inequitable restrictions or admission to membership therein and are truly representative of such trade or industry, or subdivision thereof, in the Territory of Hawaii or the Territory of Puerto Rico, for:

(a) Modification of such code in its application to such Territory, or
(b) The approval of a separate code of fair competition for or including that trade or industry, or subdivision thereof, in such Territory.

Where such application is so made the exemption provided for by Paragraph (1) of this Order shall be and remain in effect unless and until such application is denied.

(4) At any time before the expiration of an exemption from the code of fair competition under Paragraph (1) of this Order any person directly affected who claims that application of the code in the Territory will be unjust to him and applies for an exception to or an exemption from the code shall be given opportunity for a hearing and determination of the issues raied prior to incurring any liability to enforcement of the code and the Deputy Administrator for such Territory shall, if justice requires, stay the application of the code in the Territory for all similarly affected pending determination of the issues.

(5) An exemption under Paragraph (1) of this Order shall, if

OTTO

the Deputy Administrator for the Territory shall so order for a trade or industry, or subdivision thereof, in that Territory, be or remain in effect only as to those who enter into and comply with an agreement with me as authorized in Executive Order No. 6750-A, approved June 27, 1934. It shall continue in effect as to those entering into and complying with such agreement so long as such agreement shall remain in effect.

(6) Persons participating in any application for which provision is made in Paragraphs (3) or (4) of this Order, who require labels bearing N.R.A. insignia at any time before such labels can be issued under a code of fair competition or a modification of a code for which they have made such application, shall be entitled to obtain and use such labels if they have entered into and are complying with such an agreement. They shall be entitled to obtain such labels:

(a) From the Code Authority administering the Code from which such persons are exempted under Paragraph (1) of this Order upon the same terms and conditions as a member complying with such code. A certificate by such person of compliance with such agreement shall satisfy the requirement of a certificate of compliance with the code.

(b) From the Deputy Administrator for the Territory whenever such persons are not subject to an approved code by its terms.

(7) The Deputy Administrator for the Territory of Hawaii and the Deputy Administrator for the Territory of Puerto Rico are authorized:

(a) To have prepared and to issue labels as provided for in Subparagraph (b) of Paragraph (6) of this Order. Such labels shall correspond in design to those issued by the Code Authorities for the corresponding industries. Such Deputy Administrators shall provide rules and regulations governing the manufacture, issuance and use of labels, and shall impose charges for such labels, corresponding to the Rules and Regulations and charges for similar labels issued by the Code Authorities for corresponding industries in the mainland. Such labels issued by the Deputy Administrator for Hawaii shall bear the letter "H" and for Puerto Rico the letters "P.R.".

(b) To obtain such labels from the Code Authority for the code of fair competition covering the corresponding industry in the mainland, by agreement with that Code Authority. Such agreement shall be consistent with and serve to effectuate the provisions of this Order and the Rules and Regulations governing the issuance of such labels by that Code Authority except as such Rules and Regulations are notified by this Order. Such Code Authority is hereby authorized to issue such labels as herein provided.

Any net proceeds therefrom shall be held for use by the Code Authority set up under the code of fair competition for the industry, or subdivision thereof, in the Territory, to which the members paying such charges shall thereafter become subject."

HUGH S. JOHNSON
Administrator.

Washington, D.C.
July 2, 1934.
9209.

Supplementing Administrative Order No. X-60, Office Orders Nos. 102, 103 and 104 were issued on July 14, as follows:

OFFICE ORDER NO. 102

July 14, 1934

ADMINISTRATOR'S TERRITORIAL COOPERATION AGREEMENT

"Deputy Administrators for the Territories of Puerto Rico and Hawaii shall submit for the approval of the Administrator forms of agreement to be entered into pursuant to Administrative Order No. X-60, dated July 2, 1934, by persons engaged in trade or industry in such Territories.

"Such agreements shall be so framed as to be suitable generally to such trades and industries and shall include provisions for the establishment of the minimum wages and maximum hours in addition to the provisions required by Sections 7 (a) and 10 (b) of the N. I. R. A. When a form of agreement for a particular Territory has been approved by the Administrator, the Deputy Administrator for such Territory shall determine the trades and industries to which it shall be available and thereafter undertake to have such agreement signed and complied with by all members of such designated trades and industries in such Territory.

"Such Deputy Administrators may, pursuant to Paragraph (5) of Administrative Order No. X-60, dated July 2, 1934, make the signing of and compliance with such agreements a condition to the continuance of the exemption provided for in Paragraph (1) of said Order. Persons signing such agreements shall be bound by the provisions thereof, until the date of expiration, unless prior to such date they become subject to an approved code."

"By direction of the Administrator:

G. A. LYNCH,
Administrative Officer."

OFFICE ORDER NO. 103

July 14, 1934

AGREEMENTS FOR TEMPORARY ISSUANCE OF LABELS
IN THE TERRITORIES OF PUERTO RICO AND HAWAII

"Any person engaged in trade or industry in the Territories of Puerto Rico or Hawaii desiring to use labels pursuant to the provisions of Administrative Order No. X-60, dated July 2, 1934, may obtain the right to use such labels by entering into an agreement with the Administrator as provided in Executive Order No. 6750-A, dated June 27, 1934, and Office Order No. 102, dated July 14, 1934. Application for the use of such labels and to enter into such agreement shall be filed by such person with the Deputy Administrator for the Territory in which his enterprise is located.

"Upon receipt of such an application, such Deputy Administrator shall fix a time and place for a public hearing thereon and exercise due diligence to give notice of the time, place and purpose of such hearing to all persons whose interests may be affected by the granting of such application.

"Prior to the close of such hearing, such Deputy Administrator shall permit all persons similarly situated, who desire to do so, to join in such application. The agreement, after final revision in the light of facts presented at the public hearing and signature of such applicants shall be forwarded by such Deputy Administrator together with application, transcript of testimony, reports of advisers, and his own report thereon, to the Division Administrator for Division VIII.

"If the latter approves the application and agreement, he shall forward a copy thereof to the Division Administrator for the Division administering the code under which labels are to be issued, who shall return the same to the Division Administrator for Division VIII together with his report thereon. Additional hearings or opportunity to be heard may be provided in the United States, if the facts within the particular industry or justice may require. If such report of the Division Administrator for the division administering such code approves the application and agreement, all the documents shall be forwarded to the Administrator for signature. If such report disapproves the application, the Division Administrator for Division VIII shall submit the complete file to the Assistant Administrator for Policy for decision, and submission by him to the Administrator for signature."

"By direction of the Administrator:

G.A.LYNCH,
Administrative Officer."

OFFICE ORDER NO. 104

July 14, 1934

TERRITORIES OF PUERTO RICO AND HAWAII
NOTICE AND HEARING

"As soon as printed copies of approved codes are available the Publication Division shall forward to the Deputy Administrator in each Territory, a sufficient number thereof, to supply his needs for the purpose hereinafter stated.

"Immediately upon receipt of copies of an approved code such Deputy Administrator shall exercise due diligence to give notice to all members of the trade or industry governed by such code:

(1) Of the terms of such code;

(2) That the Territorial trade or industry governed thereby is exempt from the provisions thereof until the 1st day of September 1934, in the case of codes heretofore approved and in the case of codes hereafter approved, for a period of 60 days from the date of approval. If such exemption has been made conditional the notice shall so state. Conditions thereafter imposed shall be similarly notices;

(3) That at any time before the date specified in the notice provided for in Paragraph (2) hereof, application may be made for:

(a) Modification of such code in its application to such Territory, or

(b) The approval of a separate code of fair competition for or including the trade or industry governed by such code, in such Territory, or

(c) Exception to or an exemption from such code by any person claiming that the application thereof will be unjust to him; as provided for in Paragraphs (3) and (4) of Administrative Order No. X-60, dated July 2, 1934.

"Upon receipt of an application for modification of an approved code in its application to a Territorial trade or industry, or for approval of a separate code for such trade or industry, the Deputy Administrator for the Territory in question shall exercise due diligence to notify all interested parties of the receipt and contents of such application and of the time and place where they may be heard with respect thereto, and shall thereafter proceed as in the case of a proposed code.

"Due diligence shall be deemed to have been exercised if the Deputy Administrator, in addition to the steps referred to in Executive Order No. 6527, dated December 21, 1933, shall have caused such notices to be posted in post offices and other places in the Territory customarily recognized as proper places for the posting of legal notices."

"By direction of the Administrator:

G.A. LYNCH,
Administrative Officer."

9861.

The Administrator's authority to approve agreements pursuant to Section 4 (a) of the Act with persons engaged in trade or industry in Puerto Rico, Hawaii or Alaska, was delegated to him by Executive Order No. 6750-A, June 26, 1934, reading as follows:

"By virtue of and pursuant to the authority vested in me by Title I of the National Industrial Recovery Act of June 16, 1933 (Chapter 90, 48 Stat. 195), and in order to effectuate the purposes of said title, I hereby delegate to the Administrator for Industrial Recovery, in addition to the functions and powers heretofore delegated to him, the power to enter into agreements, pursuant to Section 4 (a) of said Act with persons engaged in a trade or industry in the Territory of Puerto Rico, the Territory of Hawaii, or the Territory of Alaska, if in his judgment such agreements will aid in effectuating the policy of said title with respect to transactions in or affecting interstate or foreign commerce, and will be consistent with the requirements of clause 2 of subsection (a) of section 3 of said act."

In accordance with Office Order 102 entitled "Administrator's Territorial Cooperation Agreement", the Deputy Administrator for Puerto Rico, with the assistance of the Legal Division in Washington, prepared and submitted a form of agreement, which was approved by the Administrator on August 27, 1934. The order approving the form of agreement, Administrative Order No. X-80, is quoted below, together with the agreement.

ORDER

APPROVING ONE FORM OF ADMINISTRATOR'S TERRITORIAL COOPERATION AGREEMENT.

Administrative Order No.X-80

"Being empowered by Executive Order No. 6750-A, dated June 27, 1934, to enter into agreement pursuant to Section 4 (a) of the National Industrial Recovery Act with persons engaged in trade or industry in Puerto Rico or in the Territories of Hawaii and Alaska, and having in Office Order No. 102, dated July 14, 1934, indicated a desire to approve the form of agreement to be

entered into pursuant to Administrative Order No. X-60, dated July 2, 1934;

"NOW, THEREFORE, I approve the form of Administrator's Territorial Cooperation Agreement which is attached hereto and marked by me as 'Exhibit A' ."

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval Recommended:

Linton M. Collins,
Acting Division Administrator.

Washington, D.C.

August 27, 1934.

EXHIBIT "A".

ADMINISTRATOR'S TERRITORIAL COOPERATION AGREEMENT

"(Authorized by Section 4 (a) of the National Industrial Recovery Act, and Executive Order of June 27, 1934.)

"The undersigned hereby agrees with the Administrator for Industrial Recovery as follows:

"(1) This Agreement shall become effective upon approval thereof by the Administrator, and shall be and remain in effect until: (a) A separate code, or modification of mainland code, for the Territory, to which the undersigned is subject, has been approved by the President; or (b) The Deputy Administrator for the Territoty of _____ shall order its termination; or (c) In any event, not later than June 15, 1935.

"(2) The term "employee" as used herein includes any and all persons engaged in the trade/industry of the undersigned however compensated.

"(3) No employee shall be permitted to work in excess of _____hours in any one week, or _____hours in any one day, except for_____weeks in any calendar year, any employee may be permitted to work not more than_____hours per week, or_____hours per day. However, before undertaking to work any employees for the_____hours per week, or _____hours per day, permitted in the above exception, the undersigned will notify the Deputy Administrator for _____by letter addressed to him at_____ _____of the intention to work employees for such period during specified weeks. All hours in excess of _____ per day or _____ per week shall be paid for at not less than one

and _____ times the employee's regular rate of pay.

"(4) The provisions of Paragraph 3 shall not apply to employees engaged in emergency maintenance or emergency repair work involving breakdown or the protection of life or property, nor to persons employed in a managerial or executive capacity who earn regularly _____dollars per week or more; provided, however, that employees engaged in such emergency maintenance and emergency repair work shall be paid at one and _____ times their normal rate for all hours worked in excess of_____hours per week.

"(5) No employee shall be paid in any pay period less than at the rate of _____ per week for _____hours of labor. It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or on a piece-work performance.

"(6) Not to make any reduction in the full-time weekly earnings of any employee whose normal full-time weekly hours are reduced by _____ per cent, or less, below those existing for the four weeks ending _____. When the normal full-time weekly hours of an employee are reduced by more than said per cent, the full-time weekly wage of such employee shall not be reduced by more than one-half of the percentage of hour reduction above said per cent. In no event shall hourly rates of pay be reduced, irrespective of whether compensation is actually paid on an hourly, weekly or other basis, nor shall any wages be at less than the minimum wages herein provided. Within _____ days of the date hereof, (Unless such adjustment has been made theretofore) the undersigned shall adjust the schedules of wages of his employees in such an equitable manner as will conform to the provisions hereinabove set forth, and still preserve wage differentials reasonably proportionate to those in effect prior to the date of this Agreement.

"(7) No person under sixteen (16) years of age shall be employed by the undersigned in any capacity. No person under eighteen (18) years of age shall be employed at operations or at occupations which are hazardous in nature or are dangerous to health. The undersigned shall submit to the Deputy Administrator for_____for approval before_____ 1934, a list of such operations or occupations, if any. The undersigned shall be deemed to have complied with this provision as to age is he shall have on file a valid certificate or permit duly signed by the authority in such territory or possession empowered to issue employment or age certificates or permits showing that the employee is of the required age.

"(8) Learners or apprecentices, not to exceed one in _____ of the total number of employees, may be employed by the undersigned and shall be paid not less than_____% of the

minimum wage herein provided for during the first _____ weeks of their employment in the trade or industry, and not less than _____% of the minimum wage during the second _____weeks of such employment. The undersigned will not knowingly employ as a learner or apprentice any person who has been employed in the trade or industry except for the remainder or the period of the _____weeks training which has not already been served.

"(9) A person whose earning capacity is limited because of age, physical, or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this Code, if the undersigned obtains from the proper authority designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. The undersigned shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

"(10) To make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

"(11) Not to use any subterfuge to frustrate the spirit and intent of this Agreement which is among other things, to increase employment by this covenant, to remove obstructions to commerce, and to shorten hours and to raise wages for the shorter week to a living basis.

"(12) Where as the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases should be delayed and that then made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

"(13) To support and patronize establishments which also signed an Administrator's Territorial Cooperation Agreement or are operating under an approved Code.

"(14) To display official copies of this Agreement or of the provisions hereof with respect to hours of labor, rates of pay, and other conditions of employment, and to see that such official copies are posted conspicuously and in sufficient number so that all employees may freely and conveniently read the same.

"(15) That he will not dismiss or demote any employee for making a complaint or giving evidence with respect to an alleged violation of the provisions of the National Industrial Recovery Act, or an approved Code of Fair Competition, or of this and other Agreements of the same nature.

"(16) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

"(17) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

"(18) The undersigned shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

"(19) This Agreement is not intended and will not be permitted to promote monopolies or to eliminate or oppress small enterprises and will not be permitted to operate in a discriminatory manner against them but is intended to effectuate the policy of Title I of the National Industrial Recovery Act.

"(20) This Agreement and all the provisions thereof are expressly made subject to the right of the President, pursuant to Section 10 (b) of the National Industrial Recovery Act, to cancel or modify the approval given to this Agreement.

"(21) It is understood by the undersigned that the President may by rule or regulation prescribe that all of the provisions of this Agreement shall be observed, in which event the undersigned in violating this Agreement may become subject to punishment by a fine of not to exceed five hundred ($500) dollars and imprisonment of not to exceed six (6) months or both.

"(22) The undersigned further understands that in all cases where an exemption has been conditioned upon the making of this Agreement any breach of said Agreement by the undersigned may operate forthwith to terminate both this Agreement and such exemption, and that the undersigned immediately may become subject to the applicable Code of Fair Competition."

Copy of that Order and form of agreement were sent to the Deputy Administrator for Hawaii for his use as well as for the use of the Deputy for Puerto Rico.

CHAPTER IX

RESULTS OF CODIFICATION PLAN

The results obtained from the effort at writing separate codes were very disappointing and showed clearly that the plan of negotiating and seeking approval of separate codes was a most ineffective way of getting the National Industrial Recovery Act in operation in the Territories. Despite heroic efforts on the part of the Deputy Administrators for Hawaii and Puerto Rico, and their staffs, it seemed almost impossible to get approval of a separate code. Perhaps the principal reason for this difficulty was their great distance from Washington and their inability to keep up with the constant change in policies of the national Administration. During the Spring and Summer of 1934 the policy was changed very frequently and since the industries and deputies in the Territories used the already approved national codes as models for their territorial codes, by the time the proposed codes were received in Washington the policy had been changed and it was necessary to return the proposed codes to the Territories for change in order to conform to the new prevailing policy. The trades and industries in the Territories insisted on incorporating into their proposed codes provisions for price fixing and for production control similar to those which had been permitted in the early national codes. They attempted also to include in their proposed codes other trade practice provisions which were definitely against the national Administration's policy. The codes, therefore, had to be returned to the Territories with advice that the objectionable provisions must be deleted before approval could be given.

Another factor which contributed greatly to the interminable delay in securing approval of the codes was the lack of interest shown in Washington when the proposed codes were received there. As soon as proposed codes were received in the Territorial Section, they were checked over to see that all documents had been forwarded and then promptly sent to the Deputy Administrator handling the corresponding mainland industry, with a letter outlining the procedure to be followed by him from that point on. It was at this point that the great delay took place. The Deputy Administrators were already overburdened with work on their own national codes. They knew nothing whatsoever about the territorial situation and evidently thinking it was a matter which would require careful study and consideration and considerable time, they put the codes aside until they could have sufficient time to check into them. The Breathing spell they were awaiting in most cases never arrived. The Territorial Section checked with them frequently urging them to speed up their review, and furnish criticisms if any, so that if any corrections had to be made the Deputy Administrator in the Territory could be advised. Part of the function of the mainland Deputy was to submit the proposed code to the various Advisory Boards and secure their reports thereon! In most cases the Deputies delayed a long time before even doing that and then failed to follow up and see that reports were furnished by each of the Advisory Boards. Upon receiving reports from one or two or maybe three of the Boards and seeing that the Boards registered a number of objections to provisions of the code, the Deputies became even more disinterested because of the difficulties they could foresee in attempting to secure

approval of the code. The fault, however, for this lack of interest and the long delay that resulted from it, did not properly rest on the Deputies for they already had their hands more than full in taking care of their own national codes and they really did not have any time to devote to the territorial codes.

The Territorial Section seeing that this condition existed and in all likelihood would continue to exist, time and again pointed it out to the Executive Office and recommended that a special section with the necessary personnel be assigned to the work of review and expedition of the territorial codes. The Executive Office, however, felt that this was not necessary and refused to set up such a special section or to provide additional personnel to handle territorial codes. The Territorial Section consisted of only one person, an Assistant Deputy, and he was simply snowed under a volume of detail at all times.

The Deputy Administrator for Hawaii had submitted 25 proposed codes which had been assented to by the members of the industries there. The first code to be approved was the Retail Code, which was approved on October 15, 1934. Almost all of the work necessary to secure approval of that code was done by the Territorial Section of Division 8, because the mainland Assistant Deputy, whose job it was to handle the code, found it impossible due to his many other duties to give it anything but the very slightest attention.

In January 1935 no other Hawaiian proposed codes had as yet been approved. Deputy Gullion in Hawaii found himself under terrific pressure from the members of trades and industries who were strenuously objecting to the long delay in securing approval of their codes which had been submitted many months before. The situation being desperate the Deputy Administrator for Hawaii came to Washington in an effort to speed up approval. He remained here about six weeks and, with the assistance of the Territorial Section, working day and night, was able to secure approval of the Automobile Code, the Graphic Arts Code, the Manufacturing Code and the Restaurant Code. These were the major codes for the territory and because they were so important from the viewpoint of compliance he could remain no longer and returned to Hawaii so that he could be on hand to see that they got off to a good start as soon as they became effective. His success in securing approval of the codes during the short time that he was here showed clearly, that, if the recommendation of the Territorial Section that a special section with the necessary personnel be set up in Washington to expedite territorial codes had been approved and carried out, the long delays in securing approval of codes which resulted from the plan of leaving it up to the mainland Deputies could have been avoided.

The Puerto Rico situation was somewhat different from that in Hawaii. Trades and industries there submitted applications for separate codes in order to benefit by the exemption granted in Administrative Order X-60, but their efforts at securing approval of their codes were lukewarm in most cases and they were not anxious to operate under codes. The greatest pressure for codes in Puerto Rico was that brought by labor. The Puerto Rico Needlework Code had become effective in July and the Deputy Administrator and his staff had their hands full in trying to get that code to work. This left them very little time for pushing other proposed codes.

Public hearings were held on about a dozen codes but there were conflicts between labor and industry regarding labor provisions and agreement was secured on only two codes, the Baking Industry and the Ice Industry.

The proposed codes for those two industries were forwarded to Washington, with the recommendation of the Deputy Administrator for Puerto Rico that they be approved, in November, 1934. While they were being reviewed in Washington, the Deputy Administrator for Puerto Rico found it necessary to come to Washington in connection with some administrative action required on the Needlework Code for Puerto Rico. By working diligently with the mainland Assistant Deputy on the Baking Code, and the Territorial Section, the Deputy Administrator for Puerto Rico was able to secure approval of the Baking Code on December 21, 1934.

He found that many of the provisions in the proposed Ice Code were unacceptable to the national administration and he could not secure approval of that code, so it was necessary for him to send it back to Puerto Rico for correction.

No more codes were approved for the territories up until the time of the Schechter decision on May 27, and therefore there were only five separate codes approved for Hawaii, namely, the Retail, Automobile, Graphic Arts, Manufacturing and Restaurant Codes, and only two separate codes approved for Puerto Rico, the Needlework Code and the Baking Code. (See Vol XVIII, Page 1; Vol XII, Page 153; Vol. XXII, Page 53; Vol. XII, Page 175 - Codes of Fair Competition as approved- Goverment Prirting Office).

The number of employees covered by each of the approved codes was as follows: Retail Trade in Hawaii, 15,000; Manufacturing Industry in Hawaii, 2,500; Automotive Trade in Hawaii, 2,500; Graphic Arts Industry in Hawaii, 1,250; Restaurant Trade in Hawaii, 1,000; Needlework Industry in Puerto Rico, 77,000 (70,000 of whom were homeworkers); Baking Industry in Puerto Rico, 600.

In Hawaii, the Canning and Can Manufacturing industries, with a total of about 10,000 employees, operated under their respective national codes with special wage provisions for Hawaii.

No agreements such as were provided for in Administrative Order X-60 were negotiated in Puerto Rico. The Deputy Administrator there felt that the lukewarm attitude evidenced by trades and industries as yet uncodified and the inability of labor and industry to agree on labor provisions made any attempt at the use of agreements inadvisable, and he therefore did not utilize the agreement provisions of Order X-60.

In Hawaii the Deputy Administrator had a better situation to deal with, inasmuch as there was local enthusiasm for N.R.A. Trades and industries generally pledged themselves to comply with the provisions of their proposed codes pending approval, so he had little need to condition their exemption on compliance with an agreement meanwhile. He did however negotiate an agreement with the alcoholic beverages industries which the members of the industry signed and complied with pending approval of their

application for a separate code of labor provisions. He did not use the form of agreement provided in Administrative Order X-80, but rather composed an agreement which incorporated the labor provisions of the proposed separate code. The form of the agreement was found to be legally objectionable when reviewed in Washington and it therefore was not formally approved. However inasmuch as the industry was complying with the agreement and felt itself obligated to do so, it was considered inadvisable to disturb the situation especially since it would most likely be only a short time until the proposed code would be approved. The Deputy Administrator negotiated a similar agreement with hotel restaurant owners, who were exempt from the Restaurant Code. The agreement incorporated the labor provisions of the Restaurant Code verbatim, was signed by the hotel restaurant owners and was complied with by them. When received in Washington, it was found to be legally defective for the same reason as the other agreement, and could not be formally approved. Inasmuch as the members were actually complying with the agreement, and it appeared that it would be only a short time until their application for inclusion under the proposed Hotel Code would be approved, it was decided not to disturb the situation, for the desired results were being obtained.

CHAPTER X

ADMINISTRATION

I. ALASKA

Since the mainland codes were in effect in Alaska, they were administered from Washington, at least theoretically. Outside of the Canned Salmon Industry, however, the only contacts the trades and industries in Alaska had with the National Recovery Administration were contacts with Deputy Administrator Wade located in Juneau, Alaska. He was their source of all NRA information, they made their complaints to him and he acted as the Compliance Officer. Compliance in Alaska was uniformly good. Occasionally, however, situations arose where temporary exemptions were necessary. Because of the long delay involved in transmitting a request for exemption to Washington and securing action on it, at the end of which time the emergency probably would have expired, Deputy Wade occasionally found himself obliged to grant an informal, unofficial exemption to certain industry members. To fail to grant such exemption in meritorious cases would have broken down compliance and morale because due to the necessity of the occasion the industry member would have deliberately failed to comply. It was therefore found desirable to grant the Deputy Administrator for Alaska the authority to grant exemptions where necessary, and this was done on May 3, 1933 in Office Memorandum No. 356, which read as follows:

> "The Deputy Administrator for the Territory of Alaska is authorized, subject to the general supervision of, and review by, the National Industrial Recovery Board, but in its name and by its authority, on application made by any member or members of a trade or industry, to exempt or refuse to exempt from any provision of any code of fair competition to the extent that such code applies to any transaction within the Territory of Alaska, with the exception that such authorization shall not apply with respect to exemptions from any provision of any of the following codes of fair competition: Canning Industry, Canned Salmon Industry, Lumber and Timber Products Industry, Fishery Industry."

II. HAWAII

Hawaii being 2500 miles west of the Pacific Coast, six days by boat from San Francisco, it takes about two weeks for mail to reach Washington from Honolulu. After the Retail Code became effective it was soon found that efficient and prompt administration could not be secured if all the many detailed matters arising under the codes requiring action by the Board had to be forwarded to Washington. Such administration was attempted in connection with the Retail Code and was most unsatisfactory. The Deputy Administrator for Hawaii had requested that power be delegated to him to handle these matters on the ground as they arose. Otherwise compliance would suffer greatly. The Division Administrator on the mainland handling the Retail Code, after several experiences with matters which had been forwarded for his attention stated that he could see no necessity for forwarding such matters to Washington inasmuch as he would have to be guided anyway by the recommendation of the Deputy in Hawaii who knew

conditions better than he. He therefore was in favor of delegating the authority to the Deputy for Hawaii so far as the code under his supervision was concerned. When Deputy Gullion arrived in Washington in January he took this matter up with the Board and on March 19, 1935 Office Memorandum No. 348 was issued delegating additional authority to the Deputy for Hawaii. The memorandum reads as follows:

> "The Deputy Administrator for the Territory of Hawaii is hereby authorized to exercise all of the powers delegated to or vested in the National Industrial Recovery Board by virtue of any Code of Fair Competition heretofore or hereafter approved exclusively for the Territory of Hawaii, except the power to approve amendments to, or codes supplementary to, any such Code of Fair Competition approved exclusively for the Territory of Hawaii.
> "The Deputy Administrator for the Territory of Hawaii is hereby authorized to grant exemptions from, and to stay provisions of, and to make interpretations of, Codes of Fair Competition approved exclusively for the Territory of Hawaii.
> "The authority hereinabove delegated to the Deputy Administrator for the Territory of Hawaii is made subject to the following conditions:
>
> (a) Any action taken by the Deputy Administrator for the Territory of Hawaii must be in conformity with the rules and regulations and policy heretofore or hereafter established by the National Recovery Administration in Washington;
> (b) All action taken by the Deputh Administrator for the Territory of Hawaii in the exercise of the powers hereinabove delegated shall be promptly reported by the said Deputy Administrator to the National Industrial Recovery Board and shall be subject to review and disapproval by said National Industrial Recovery Board.
>
> By direction of the National Industrial Recovery Board.
> W. A. Harriman,
> Administrative Officer."

III. PUERTO RICO

Puerto Rico being much nearer to Washington, only two days away by air mail, administration from Washington was not difficult. Only two codes had been approved, the Baking Code and the Needlework Code. The Baking Code was of relatively minor importance. The Needlework Code was the subject of much controversy between Puerto Rican interests and mainland interests. It therefore was considered inadvisable to delegate to the Deputy for Puerto Rico similar authority to that delegated to the Deputy for Hawaii. There was real competition between the Needlework Industry in Puerto Rico and the mainland industry, whereas there was very little competition between the separate codes which had been approved for Hawaii and the corresponding industries on the mainland.

CHAPTER XI

EVALUATION AND CONCLUSIONS

The plan of separate codification for the territories did not work out as satisfactorily as was anticipated. Only five of twenty-five submitted separate codes for Hawaii were finally approved; and tho e that finally were approved did not receive approval until after long discouraging months of negotiation. The Retail Code was approved October 15, 1934, ten months after the public hearing was held; the Manufacturing Code February 14, 1935, the Restaurant Code March 5, 1935, the Graphic Arts Code March 7, 1935, and the Automotive Code March 26, 1935, all more than one year after their public hearings had been held.

Puerto Rico had only two out of twelve proposed codes approved, the Needlework Code on June 28, 1934, six months after it went to public hearing, and the Baking Code on December 21, 1934, about eight months after public hearing.

As a result, many of the trades and industries in those territories were never brought under codes, and those industries which were codified did not have their codes approved until such a late date that they operated under the Act for a much shorter time than did the trades and industries in Alaska which did not propose separate codes but rather worked under the national codes as a part thereof.

Because there were strong legal doubts whether or not the trades and industries in the territories were properly subject to national codes inasmuch as it was questionable if the proponents of national codes were truly representative of the territories, the policy adopted by the Administration was no doubt the most prudent under the circumstances. However, the experience in attempting to negotiate separate codes would seem to point out clearly the inadvisability of repeating the plan should the problem again present itself.

If the occasion should arise for negotiating and approving new national codes, the Administration could see to it that the territories were properly represented originally in the national code, and thus each industry in the territories would be codified as a part of the national industry, thereby preventing the long delays of separate codification and the confusion and conflicts that arise between mainland and territorial interests when separate codes are approved. The problem of administration would be greatly simplified, as the industries in the territories would then occupy the same position as the industries in any other geographical section of the country and could be handled on exactly the same basis.

APPENDIX I

METHOD OF TREATMENT

The subject of this study lends itself naturally and logically to chronological treatment, and that method has been followed in the report.

The material for the report has been obtained almost entirely from the N R A files. Where the files are incomplete (those up to January 1, 1934), the voids have been filled in by conferences with members of the staff who worked on the territorial problem at the time. Some information contained in the report, such as material on economic conditions in the territories, had to be collected from outside sources, such as the Department of Commerce and the Department of Labor. The sources of information are given in the body of the report.

FUTURE RESEARCH

The following topics, while not embraced in this report, suggest themselves as worthy of study by anyone interested in delving more deeply into the subject:

Analysis of the provisions of the proposed and approved separate territorial codes.

Administration in the territories of the approved separate Codes.

Effects of the provisions and their administration.

OFFICE OF THE NATIONAL RECOVERY ADMINISTRATION
THE DIVISION OF REVIEW

THE WORK OF THE DIVISION OF REVIEW

Executive Order No. 7075, dated June 15, 1935, established the Division of Review of the National Recovery Administration. The pertinent part of the Executive Order reads thus:

> The Division of Review shall assemble, analyze, and report upon the statistical information and records of experience of the operations of the various trades and industries heretofore subject to codes of fair competition, shall study the effects of such codes upon trade, industrial and labor conditions in general, and other related matters, shall make available for the protection and promotion of the public interest an adequate review of the effects of the Administration of Title I of the National Industrial Recovery Act, and the principles and policies put into effect thereunder, and shall otherwise aid the President in carrying out his functions under the said Title. I hereby appoint Leon C. Marshall, Director of the Division of Review.

The study sections set up in the Division of Review covered these areas: industry studies, foreign trade studies, labor studies, trade practice studies, statistical studies, legal studies, administration studies, miscellaneous studies, and the writing of code histories. The materials which were produced by these sections are indicated below.

Except for the Code Histories, all items mentioned below are scheduled to be in mimeographed form by April 1, 1936.

THE CODE HISTORIES

The Code Histories are documented accounts of the formation and administration of the codes. They contain the definition of the industry and the principal products thereof; the classes of members in the industry; the history of code formation including an account of the sponsoring organizations, the conferences, negotiations and hearings which were held, and the activities in connection with obtaining approval of the code; the history of the administration of the code, covering the organization and operation of the code authority, the difficulties encountered in administration, the extent of compliance or non-compliance, and the general success or lack of success of the code; and an analysis of the operation of code provisions dealing with wages, hours, trade practices, and other provisions. These and other matters are canvassed not only in terms of the materials to be found in the files, but also in terms of the experiences of the deputies and others concerned with code formation and administration.

The Code Histories, (including histories of certain NRA units or agencies) are not mimeographed. They are to be turned over to the Department of Commerce in typewritten form. All told, approximately eight hundred and fifty (850) histories will be completed. This number includes all of the approved codes and some of the unapproved codes. (In Work Materials No. 18, Contents of Code Histories, will be found the outline which governed the preparation of Code Histories.)

(In the case of all approved codes and also in the case of some codes not carried to final approval, there are in NRA files further materials on industries. Particularly worthy of mention are the Volumes I, II and III which constitute the material officially submitted to the President in support of the recommendation for approval of each code. These volumes

set forth the origination of the code, the sponsoring group, the evidence advanced to support the proposal, the report of the Division of Research and Planning on the industry, the recommendations of the various Advisory Boards, certain types of official correspondence, the transcript of the formal hearing, and other pertinent matter. There is also much official information relating to amendments, interpretations, exemptions, and other rulings. The materials mentioned in this paragraph were of course not a part of the work of the Division of Review.)

THE WORK MATERIALS SERIES

In the work of the Division of Review a considerable number of studies and compilations of data (other than those noted below in the Evidence Studies Series and the Statistical Material Series) have been made. These are listed below, grouped according to the character of the material. (In Work Materials No. 17, Tentative Outlines and Summaries of Studies in Process, these materials are fully described).

Industry Studies

Automobile Industry, An Economic Survey of
Bituminous Coal Industry under Free Competition and Code Regulation, Economic Survey of
Electrical Manufacturing Industry, The
Fertilizer Industry, The
Fishery Industry and the Fishery Codes
Fishermen and Fishing Craft, Earnings of
Foreign Trade under the National Industrial Recovery Act
  Part A - Competitive Position of the United States in International Trade 1927-29 through 1934.
  Part B - Section 3 (e) of NIRA and its administration.
  Part C - Imports and Importing under NRA Codes.
  Part D - Exports and Exporting under NRA Codes.
Forest Products Industries, Foreign Trade Study of the
Iron and Steel Industry, The
Knitting Industries, The
Leather and Shoe Industries, The
Lumber and Timber Products Industry, Economic Problems of the
Men's Clothing Industry, The
Millinery Industry, The
Motion Picture Industry, The
Migration of Industry, The: The Shift of Twenty-Five Needle Trades From New York State, 1926 to 1934
National Labor Income by Months, 1929-35
Paper Industry, The
Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, January 1923, to date
Retail Trades Study, The
Rubber Industry Study, The
Textile Industry in the United Kingdom, France, Germany, Italy, and Japan
Textile Yarns and Fabrics
Tobacco Industry, The
Wholesale Trades Study, The
Women's Neckwear and Scarf Industry, Financial and Labor Data on

Women's Apparel Industry, Some Aspects of the

Trade Practice Studies

Commodities, Information Concerning: A Study of NRA and Related Experiences in Control
Distribution, Manufacturers' Control of: Trade Practice Provisions in Selected NRA Codes
Distributive Relations in the Asbestos Industry
Design Piracy: The Problem and Its Treatment Under NRA Codes
Electrical Mfg. Industry: Price Filing Study
Fertilizer Industry: Price Filing Study
Geographical Price Relations Under Codes of Fair Competition, Control of
Minimum Price Regulation Under Codes of Fair Competition
Multiple Basing Point System in the Lime Industry: Operation of the
Price Control in the Coffee Industry
Price Filing Under NRA Codes
Production Control in the Ice Industry
Production Control, Case Studies in
Resale Price Maintenance Legislation in the United States
Retail Price Cutting, Restriction of, with special Emphasis on The Drug Industry.
Trade Practice Rules of The Federal Trade Commission (1914-1936): A classification for comparison with Trade Practice Provisions of NRA Codes.

Labor Studies

Cap and Cloth Hat Industry, Commission Report on Wage Differentials in
Earnings in Selected Manufacturing Industries, by States, 1933-35
Employment, Payrolls, Hours, and Wages in 115 Selected Code Industries 1933-1935
Fur Manufacturing, Commission Report on Wages and Hours in
Hours and Wages in American Industry
Labor Program Under the National Industrial Recovery Act, The
  Part A. Introduction
  Part B. Control of Hours and Reemployment
  Part C. Control of Wages
  Part D. Control of Other Conditions of Employment
  Part E. Section 7(a) of the Recovery Act
Materials in the Field of Industrial Relations
PRA Census of Employment, June, October, 1933
Puerto Rico Needlework, Homeworkers Survey

Administrative Studies

Administrative and Legal Aspects of Stays, Exemptions and Exceptions, Code Amendments, Conditional Orders of Approval
Administrative Interpretations of NRA Codes
Administrative Law and Procedure under the NIRA
Agreements Under Sections 4(a) and 7(b) of the NIRA
Approve Codes in Industry Groups, Classification of
Basic Code, the -- (Administrative Order X-61)
Code Authorities and Their Part in the Administration of the NIRA
  Part A. Introduction
  Part B. Nature, Composition and Organization of Code Authorities

Part C. Activities of the Code Authorities
Part D. Code Authority Finances
Part E. Summary and Evaluation
Code Compliance Activities of the NRA
Code Making Program of the NRA in the Territories, The
Code Provisions and Related Subjects, Policy Statements Concerning
Content of NIRA Administrative Legislation
Part A. Executive and Administrative Orders
Part B. Labor Provisions in the Codes
Part C. Trade Practice Provisions in the Codes
Part D. Administrative Provisions in the Codes
Part E. Agreements under Sections 4(a) and 7(b)
Part F. A Type Case: The Cotton Textile Code
Labels Under NRA, A Study of
Model Code and Model Provisions for Codes, Development of
National Recovery Administration, The: A Review of its Organization and Activities
NRA Insignia
President's Reemployment Agreement, The
President's Reemployment Agreement, Substitutions in Connection with the
Prison Labor Problem under NRA and the Prison Compact, The
Problems of Administration in the Overlapping of Code Definitions of Industries and Trades, Multiple Code Coverage, Classifying Individual Members of Industries and Trades
Relationship of NRA to Government Contracts and Contracts Involving the Use of Government Funds
Relationship of NRA with States and Municipalities
Sheltered Workshops Under NRA
Uncodified Industries: A Study of Factors Limiting the Code Making Program

Legal Studies

Anti-Trust Laws and Unfair Competition
Collective Bargaining Agreements, the Right of Individual Employees to Enforce
Commerce Clause, Federal Regulation of the Employer-Employee Relationship Under the
Delegation of Power, Certain Phases of the Principle of, with Reference to Federal Industrial Regulatory Legislation
Enforcement, Extra-Judicial Methods of
Federal Regulation through the Joint Employment of the Power of Taxation and the Spending Power
Government Contract Provisions as a Means of Establishing Proper Economic Standards, Legal Memorandum on Possibility of
Industrial Relations in Australia, Regulation of
Intrastate Activities Which so Affect Interstate Commerce as to Bring them Under the Commerce Clause, Cases on
Legislative Possibilities of the State Constitutions
Post Office and Post Road Power -- Can it be Used as a Means of Federal Industrial Regulation?
State Recovery Legislation in Aid of Federal Recovery Legislation History and Analysis
Tariff Rates to Secure Proper Standards of Wages and Hours, the Possibility of Variation in
Trade Practices and the Anti-Trust Laws
Treaty Making Power of the United States
War Power, Can it be Used as a Means of Federal Regulation of Child Labor?

THE EVIDENCE STUDIES SERIES

The Evidence Studies were originally undertaken to gather material for pending court cases. After the Schechter decision the project was continued in order to assemble data for use in connection with the studies of the Division of Review. The data are particularly concerned with the nature, size and operations of the industry; and with the relation of the industry to interstate commerce. The industries covered by the Evidence Studies account for more than one-half of the total number of workers under codes. The list of these studies follows:

Automobile Manufacturing Industry
Automotive Parts and Equipment Industry
Baking Industry
Boot and Shoe Manufacturing Industry
Bottled Soft Drink Industry
Builders' Supplies Industry
Canning Industry
Chemical Manufacturing Industry
Cigar Manufacturing Industry
Coat and Suit Industry
Construction Industry
Cotton Garment Industry
Dress Manufacturing Industry
Electrical Contracting Industry
Electrical Manufacturing Industry
Fabricated Metal Products Mfg. and Metal Finishing and Metal Coating Industry
Fishery Industry
Furniture Manufacturing Industry
General Contractors Industry
Graphic Arts Industry
Gray Iron Foundry Industry
Hosiery Industry
Infant's and Children's Wear Industry
Iron and Steel Industry
Leather Industry
Lumber and Timber Products Industry
Mason Contractors Industry
Men's Clothing Industry
Motion Picture Industry
Motor Vehicle Retailing Trade
Needlework Industry of Puerto Rico
Painting and Paperhanging Industry
Photo Engraving Industry
Plumbing Contracting Industry
Retail Lumber Industry
Retail Trade Industry
Retail Tire and Battery Trade Industry
Rubber Manufacturing Industry
Rubber Tire Manufacturing Industry
Shipbuilding Industry
Silk Textile Industry
Structural Clay Products Industry
Throwing Industry
Trucking Industry
Waste Materials Industry
Wholesale and Retail Food Industry
Wholesale Fresh Fruit and Vegetable Industry
Wool Textile Industry

THE STATISTICAL MATERIALS SERIES

This series is supplementary to the Evidence Studies Series. The reports include data on establishments, firms, employment, payrolls, wages, hours, production capacities, shipments, sales, consumption, stocks, prices, material costs, failures, exports and imports. They also include notes on the principal qualifications that should be observed in using the data, the technical methods employed, and the applicability of the material to the study of the industries concerned. The following numbers appear in the series:
9768—5.

Asphalt Shingle and Roofing Industry
Business Furniture
Candy Manufacturing Industry
Carpet and Rug Industry
Cement Industry
Cleaning and Dyeing Trade
Coffee Industry
Copper and Brass Mill Products Industry
Cotton Textile Industry
Electrical Manufacturing Industry
Fertilizer Industry
Funeral Supply Industry
Glass Container Industry
Ice Manufacturing Industry
Knitted Outerwear Industry
Paint, Varnish, and Lacquer, Mfg. Industry
Plumbing Fixtures Industry
Rayon and Synthetic Yarn Producing Industry
Salt Producing Industry

THE COVERAGE

The original, and approved, plan of the Division of Review contemplated resources sufficient (a) to prepare some 1200 histories of codes and NRA units or agencies, (b) to consolidate and index the NRA files containing some 40,000,000 pieces, (c) to engage in extensive field work, (d) to secure much aid from established statistical agencies of government, (e) to assemble a considerable number of experts in various fields, (f) to conduct approximately 25% more studies than are listed above, and (g) to prepare a comprehensive summary report.

Because of reductions made in personnel and in use of outside experts, limitation of access to field work and research agencies, and lack of jurisdiction over files, the projected plan was necessarily curtailed. The most serious curtailments were the omission of the comprehensive summary report; the dropping of certain studies and the reduction in the coverage of other studies; and the abandonment of the consolidation and indexing of the files. Fortunately, there is reason to hope that the files may yet be cared for under other auspices.

Notwithstanding these limitations, if the files are ultimately consolidated and indexed the exploration of the NRA materials will have been sufficient to make them accessible and highly useful. They constitute the largest and richest single body of information concerning the problems and operations of industry ever assembled in any nation.

L. C. Marshall,
Director, Division of Review.

9768—6.